Supreme Court, U.S.
FILED
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No.

In the
Supreme Court of The United States

Irwin Gary Roberts,
Petitioner
v.
Patricia Jeanne Ard,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF THIS STATE OF ARIZONA

PETITION FOR A WRIT OF CERTIORARI

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THE QUESTIONS PRESENTED FOR REVIEW

1. The Petitioner within a five month period filed two Motions which can be found in Appendix 1 Exhibits E and F in the Justice Court to advise the Petitioner who the Witnesses were going to be, what evidence they had and what their legal theories were. Petitioner's Motions were denied.

   Did Judge Anderson abuse his discretion in not compelling the Respondent to produce the Disclosure Statement to the Petitioner? If the answer is yes, is the Petitioner entitled to a new trial in the State Courts of Arizona?

2. The Respondent deliberately failed to comply with the disclosure rules for six months, in fact they never complied, and the Petitioners was seriously prejudiced in his defense to the Summary Judgment granted against the Petitioner.

   Is the Petitioner entitled to a new trial in the State Courts of Arizona because the Respondent never produced the Disclosure and prejudiced the Petitioner?

3. Please refer to the Summary Judgment transcript in Appendix Q Exhibit A page 15 line 18-19 where Defense Counsel, Covell, said in open court "The purpose of delaying in the first place so we could file our Motion for Summary Judgment", this proves

that the disclosure statement was deliberately not given to the Petitioner.

> Based on Ms. Covell's admission that she deliberately did not file the Disclosure Statement, is the Petitioner entitled to a new trial in the State Courts in Arizona, as she deliberately did not give the Petitioner the Disclosure Statements?

In conclusion of the above issues of the Disclosure statement the Petitioner was not given an opportunity to a fair hearing in the trial court by the Overt Acts of Ms. Covell deliberately not producing the Disclosure Statements violating Petitioner's equal protection and due process of law and also violated Petitioner's Civil Rights under the Constitution.

4. This case also presents other issues of equal protection and due process. A party who is represented by an attorney is not sanctioned for willfully failing to follow the Rules of Civil Procedure for over six months by failing to file a Disclosure Statement, yet a party not represented by a lawyer who made a good faith effort to follow the rules is given the ultimate sanction by being denied the fundamental right to have this case heard on the merits because he was a mere thirty days late following a confusing rule that he did not willfully fail to follow that and that did not prejudice the adverse party on the merits and such action should generally result upon showing prejudice to an adverse party: absent such prejudice, society's interest in adjudicating appeal on the merits should

govern there was no showing of prejudice by the adverse party.

Was the Petitioner's Civil Rights violated under the 14th Amendment to the Constitution by the State Courts in Arizona who violated Petitioner's equal rights and due process by treating lawyers differently than a Pro Se Litigant? The Petitioner states the Overt Acts of the State Judges in Arizona violated Plaintiff's Constitutional Rights. If yes, is Petitioner entitled to a new trial in Arizona?

5) By changing the style of the case "Irwin Gary Roberts dba Accident Assistance Centers of Arizona, Inc., they made the Petitioner personally responsible and the Petitioner's Corporation personally responsible.

As the Respondents committed fraud on the Court, with the changing of the style of the case, if the answer is yes, is the Petitioner entitled to a new trial?

6) The Respondent reported the Petitioner to various agencies stating he was an Attorney. The Arizona State Department of Insurance stated the Petitioner is a public adjuster and he is allowed to settle first and third party claims.

As the Respondent committed fraud on the Court regarding the above statement, if the answer is yes, is the Petitioner entitled to a new trial?

7) There is no unauthorized practice of law in the state of Arizona, so an individual can settle first and third party claims, as public adjusters are allowed to settle first and third party claims, as they have a property right under their licenses and there is no case or statutory law in the State of Arizona that states that a public adjuster cannot settle first and third party claims.

The Respondent committed fraud on the Court again. If the answer is yes, is the Petitioner entitled to a new trial in the State of Arizona?

8) The Petitioner put a lien on the proceeds of the Respondent's third party claim and removed it in 9 days.

Therefore, it is proven in my pleadings that the Respondent committed fraud again. If the answer is yes, is the Petitioner entitled to a new trial in the State of Arizona?

9) Defense Counsel, Covell, stated that there is a statute in the State of Arizona that states that public adjusters cannot settle third party claims.

As there is not statute in the State of Arizona, then did Ms. Covell commit a fraud on the court? If so, is Petitioner entitled to a new trial?

10) Now, these above issues cover the Summary Judgment Motion that was granted against the Petitioner.

The Petitioner states there are three pre-requisites that must be met before the entry of Summary Judgment is appropriate; the record before the Court must show:

> That there is no genuine dispute as to material facts
> That only one inference can be drawn from those undisputed facts
> That based upon those facts, the moving party is entitled to judgment as a matter of law.

The Petitioners in these pleadings have proven to this Court that he submitted supporting affidavits from himself and from a Notary and in addition, answered all of the Respondent's acquisitions.

> Therefore, if this Court accepts that as the law, which it is, and the answer is yes, is the Petitioner entitled to a new trial in Arizona because the Summary Motion of the Respondent should not have been granted because there was an abuse of discretion by the judge, Judge Anderson?

11) Next the Petitioner references Exhibit I in Appendix 1 where the Petitioner requests the Summary Judgment hearing should be continued at a later date. Petitioner cites 19 Arizona APP 574 James Wesley Young v. Douglas L. Peacock May 3, 1973. The Appeals Court held that the Trial Court abused this discretion on the Petitioner's Motion for Summary Judgment where the hearing was premature. The Petitioner's Civil Rights were

violated according to the 14th Amendment because his due process was violated and he could not have a fair hearing because he didn't have the Disclosure Statements that were deliberately not given to him by the Overt Acts of the Respondents.

12. If this Court finds that Judge Anderson abused his discretion in not granting continuance, because the Summary Judgment hearing was premature, and the Petitioner was not given the Disclosure Statements, if the answer is yes, is the Petitioner entitled to a new trial in Arizona?

Does every element of fraud in Petitioner's Writ of Certiorari to the Supreme Court of the United States disclosed by the scheme by the Officers of the Court, Covell and Brnilovich, demands historical power of equity to set aside fraudulent, begotten judgments? If the answer is yes, is the Petitioner entitled to a new trial in the State of Arizona?

13. Whether the Justice Court, erred in denying Petitioner's Motion for relief under Rule 60A and 60C of the Arizona Rules of Civil Procedure.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED FOR REVIEW.....i-vi

TABLE OF AUTHORITIES.....viii-xii

TABLE OF APPENDIXES.....xiii-xiv

OPINION BELOW.....1

JURISDICTION.....1

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED.....xvi-xvii

STATEMENT OF FACTS.....5

REASONS FOR GRANTING THE PETITION.....17

I. The Arizona Supreme Court has decided an important Federal question that has not been, but should be settled by this court, and has decided that question in a way that is inconsistent with other decisions of this Court.....17

II. The Arizona Supreme Court has decided an important Federal question in a way that conflicts with decisions of other states.....44

APPENDIX

Arizona Supreme Court Decision .....App A – page 37-38
Arizona Court of Appeals Decision .....App A – page 39
Arizona Superior Court Order.....App A – page 42
Arizona Peoria Justice Court Judgment.....App A – page43-44
Arizona Peoria Justice Court Order.....App A – page 45

TABLE OF AUTHORITIES
CASES

UNITED STATES SUPREME COURT

United States v. Hazel Glass Company v. Hartford Empire Company
1944 U.S. 328, 64 S. Ct. 997 88 L.E.D. 1250.....17 & 18

Flagg Bros v. Brooks
436 U.S. 149, 98 S. Ct. 1729, 1733 56 LED 2D 185, 186, (1978).....19

Sterling Village of Maywood
579 F2D 1350, 1353 No 6 7th Cir 1978.....19

Little v. Streater
42 U.S. 1 – 1981.....31

Hunes v. Kerner
404 U.S. 519-1972.....31

Marshall v. Holmes
141 U.S. 589, 133 S. Ct. 62, 352, LED 870.....18

Barbier v. Connelly
113 U.S. 27, 28 LED 923 S.Ct. 357.....26

FEDERAL COURT

Rosier v Ford Motor Co.
573 F2D 1339.....17

Tuscayo v. Cir
441 F2D 830 (CA9 1971).....17

TABLE OF AUTHORITIES
CASES (continued)

United States v. Shaffer Equipment Co.
11 F3D 450 4th Cir.....22

Cury v. Brown
440 F2D 259, 261-262 CDC Cir 1971.....15-18
Peracriam

Hudson v. Hardy
412 F2D 1091, 1094 (DC 1968 Percuriam
C. Winfrey Brever 570 P2D 764.....18

Harris v. Payte
440 F2D 315, 318 (7th Cir 1971).....18

Ahmed v. County of Orange
924 F2D 1962 C.A.9 California.....31

James
269 F3D at 1126.....31

United States v. Shonnbi
988 F2D 84, 88 2nd Cir.....23

O'Brien v. O'Brien 1985
6624 2D 576 498 NY S2D
243 NE2D 712.....26

Hoffman v. Holden
268 F2D 280 CA9 OR 1959.....27

Hillard v. Williams
540 2D 220 (6th Cir 1976).....27

TABLE OF AUTHORITIES
CASES (continued)

Garaux
739 F2D at 439-40.....31

Abdelzher
CA9 Wash 2000.....31

CLIM v. INS
224 F3D 929, 9th Cir 2000.....31

ARIZONA COURTS

Hill v. City of Phoenix
193 Arizona 299 (1999).....13

Hanen
102 AZ at 9, 423 P2D.....19 & 30

James Wesley Young v. Douglas L. Peacock
19 Arizona, App 574, May 3, 1973.....15

Norwest Bank (Minnesota) N.H. as Custodian for
Various Pension Funds v. J. Fife Symington III
Defendant Appellant
197 Arizona page 181, 3P3D 1101 (App 2000) 17

OTHER JURISDICTIONS

Thorton v. United States
357 A2D 429 (DC) Cer. Denied 429 US
1024 (1976).....22

State v. Taylor
648 SOLD S01F-A 1995.....22

TABLE OF AUTHORITIES
CASES (continued)

State ExRel Oklahoma Bar Association
v. Johnson
863 P2D 1136 (Okla 1593).....22

People v. Bertagnolli
861 P2D 717 Colorado 1993.....22

Florida Bar v. Right Meyer
616 SO2D 953, 955 FLA 1993.....21

Florida Bar v. Dodd
118 SO2D17, 19 FLA 1960.....21

Lott v. Haley
1949 LA 310 SO2D 521.....25

Comean v. Arizona State Board of Medical
Examiners
116 Arizona 102, 106, 108, 1993 D2D
1066, 1070.....25

Schwiller Strom v. Arizona State
180 Arizona 468, 885, P2D 156, 159 APP 1994
Citing Application of Laverne 97 Arizona 880, 90-91
397 P2D 205, 207 1964.....25

O'Brien v. O'Brien
1985 66 NY 2D 576 1498 NY 26 S 2D
243 NE 2D 712 26

TABLE OF AUTHORITIES
CASES (continued)

STATUTES

Title 28 USCA 1343.....28 & 43
Title 28 USCA 1983.....29 & 43-44
Title 28 USCA 1985.....29 & 43

The 14th Amendment to the Constitution 26-32
17 BARS Civil Appellate Rule 8C Arizona 30

16 ARS Arizona Rules of Civil Procedure
Rule 26.1a 60c 2,3 or 5.....17
Rule 17B Arizona Rules of Civil
Procedure Rule 8c.....30

TABLE OF APPENDIX

Appendix D Exhibit 11 & 12 Petitioner Filed a 1st Party Claim for the Respondent .....page 129-130
Appendix 1 Exhibit D Affidavit of Michael Wilenchik.....page 142
Appendix 1 Exhibit A1 Affidavit of Irwin Gary Roberts.....page 140
Appendix 1 Exhibit SOS Department of State Proving no DBA Involved.....page 189
Appendix Q Exhibit A Transcript Before Judge Anderson.....page 192
Appendix Q Exhibits R, X, W, Z Manipulation by Defense Counsel to Change Style of Case.....pages 206, 208, 211, 214
Appendix Q Exhibit A Statement from Ms. Covell, Defense Attorney..... .....page 192
Appendix 1 Exhibits 3, 5, 8 Petitioner is Allowed to Settle Third Party Claims. Case Closed.....pages 230-234
Appendix Q Exhibit A There is No Unauthorized Practice of Law in the State of Arizona.....page 194-195
Appendix Q Exhibit A Invalid Lien Statue that Petitioner Removed in a Timely Manner.....page 194
Appendix A & Q Exhibit ROL & 16 The Lien was Removed in 9 days.....pages 222-226
Appendix Q Exhibit A There is no Statute or Case Law in Arizona that States Public Adjusters Cannot do Third Party Claims.....page 198

Appendix Q Exhibit A Defense Counsel Perpertrated a Fraud on the Court.....page 192
Appendix 1 Exhibit E & F Motion for Entry of Judgment to Dismiss Counterclaim Because of Bad Faith of Defendant for Not Filing Disclosure Statement.....page 152, 154
Appendix 1 Exhibit C Motion for Reconsideration Judge Anderson Deliberately Ignored the Law in the State of Arizona.....page 141, 149
Appendix 1 Exhibit ROL & 1 The Lien Was Removed in 9 days .....page 166
Appendix Q Exhibit R, X & W Change of Style of Case to Correct Heading.....page 208, 211, 214
Appendix Q Exhibit 3, 5, & 8 Rebecca Covell Committed Fraud Again.....page 230-233
Appendix D Exhibit D Petitioner this Supreme Court of the United States to Review and Appellant's Motion for Reconsideration for Petition for Special Action to the Court of Appeals and to Review the Petition for Review to the Supreme Court, State of Arizona.....page 83, 88
Appendix 1 Exhibit C1 Senate Bill 216 State of Arizona 45th Regular Session Clarifies Petitioner can do Third Party Claims in the State of Arizona.....page 174

I
OPINIONS BELOW

Arizona Supreme Court
Petition for Review Denied – No Opinion

Arizona Court of Appeals
Court Declines Jurisdiction Discretionary

Arizona Superior Court
Appellee's Motion to Dismiss Appeal is Granted and Ordered – Motion for Reconsideration is Denied, Discretionary, No Opinion sent back to Justice Court 10/31/02

Arizona Justice Court
Order and Judgment is Reproduced in Appendix A

Arizona Justice Court
Denying Motion for correcting a clerical error in a Judgment Rule 60A and 60C

JURISDICTION

28 U.S.C. §1257 (a)

The Arizona Supreme Court filed this decision on May 15, 2003 the Court has jurisdiction under USC 1257a to review a decision of a States highest court to consider whether a State Statue is repugnant to a State Constitution, or where any right privilege or immunity is set up or claimed under the Constitution.

STATUTORY AND CONSTITUTION PROVISIONS INVOLVED

AMENDMENT XIV, UNITED STATES CONSTITUTION

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

USC 42 §1983

§ 1983. Civil Action for Deprivation of Rights
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the depreciation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

USC 42 § 1985

§ 1985. Conspiracy to Interfere With Civil Rights. Obstructing justice; intimidating party, witness, or juror If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due Courts of Justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws.

Title 28 # 1343

The jurisdiction in this case also arises under Title 28 #1343 in that the District Court shall have jurisdiction of any civil action by law to be commenced by any person. The District Court will have original jurisdiction.

EDITOR'S NOTE

ORIGINAL PAGINATION IS NOT CONTINUOUS.

STATEMENT OF FACTS

The Petitioner was President and CEO of a multi million dollar shirt business in Clover, South Carolina in the late 60's and 70's, where 10,000 dozen shirts were stolen out of the warehouse in a white collar fraud.

After this event the Petitioner decided to go back to school where as he left Brooklyn
Law School twenty years earlier as a student in good standing after 2 years as Petitioner's father became ill and Petitioner had to help in the family business.

Petitioner clerked for a law firm in New York for two years while attending Long Island University in the evening taking two Masters Degrees Programs, one in Political Science and one in the Social Sciences with an Interdisciplinary Study at the United Nations.

The Petitioner was a single parent and took his son Seth Roberts out West to get him well, as he was suffering from asthma and within a short time Seth became well and the Petitioner became a public adjuster in Arizona.

The Petitioner Pro-Se brought an action in the Federal Courts in Charlotte, North Carolina pertaining to the white collar fraud and won hands down.

The Petitioner has been negotiating and settling 1st and 3rd party claims in automobile accidents for over 10 years in the State of Arizona under his public adjuster's licenses 28761 and under his Corporate licenses Accident Assistance Centers of Arizona, Inc. 28762. These two licenses were issued by the Arizona State Department of

Insurance based on the Petitioner's legal education and the fact Petitioner clerked for a law firm.

The Petitioner pays fees for the privilege of using his property right and his licenses 28761 and 28762 are in good standing.

The Respondent Ard is not coming into this Supreme Court of the United States with clean hands, as the Petitioner received a phone call from the Department of Welfare about three weeks ago, that the Respondent Ard did not report the $10,000 she received from this automobile accident representing herself in the case herein, as well as the other monies she received from two other automobile accidents representing herself..

The Respondent Ard did not report the $2,006 she received from the case herein to the Bankruptcy Court, where she was in recently, as well as other monies she received from other automobile accidents representing herself.

Patricia Ard, the Respondent was in an automobile accident and her vehicle was crashed into by a drunk driver. The Respondent, Ard and retained the Petitioner to find this driver so she could file a claim for her underinsured motorist coverage, which she stated was in effect in her policy. See Exhibit 11 and 12 in Appendix D. Petitioner filed a first party claim for the Respondent immediately because at that time Petitioner did not find the third party that crashed into her vehicle.

The Petitioner after a 16 ½ hour search helped the Respondent, as she now had a 3rd party claim as he found the drunk driver, however, she misrepresented an important fact to the Petitioner, the Respondent never had uninsured motorist coverage. Petitioner would not have taken her on

as client without upfront monies as the investigation had to take place one and a half hours from his office out in the boondocks.

The Petitioner informed the Respondent the charges for investigation would be $2,006 for finding the third party and that the Respondent could pay him from the proceeds from USAA the insurance carrier third party claim.

The Respondent Ard threatened the Petitioner by telling him she was going to report him to every agency in Phoenix, that the Petitioner told her he was an attorney and get the Petitioner into big trouble. The Respondent kept her word and reported the Petitioner to the Arizona State Bar, the Arizona State Department of Insurance, the Better Business Bureau and the Attorney General's office. The Petitioner was exonerated by all these agencies. When the Respondent Ard signed the contract with the Petitioner's Corporation, the Petitioner told her in the presence of a notary that he was a public adjuster and not an attorney which can be referred to in Michael Wilenchick's Appendix 1 Exhibit D Affidavit, which is notarized, stating that Roberts explained the terms of the contract to Patricia Ard and told her he was a licensed public adjuster and that he settled personal injury claims, and he was not licensed to practice law in the State of Arizona. Irwin Gary Roberts Appendix 1 Exhibit A1 Affidavit and opposition in Motion for Summary Judgment at no time did I ever tell the Respondent Ard or her father, George Klidas that I was a licensed Arizona attorney and the Petitioner told the Respondent Ard and Mr. Klidas that he was licensed as a public adjuster to settle personal injury claims in Arizona, that Petitioner did not slander Respondent Ard as truth is a defense, that Petitioner filed a lien for investigating to determine if there was 3rd party coverage, and that the lien was against the proceed of any money she would collect

from the insurance company, as she authorized me to do in the signed contract, the lien was not a lien against the real property.

The Petitioner in an effort not to forego his fee that Accident Assistance Center of Arizona, Inc. was entitled to under the contract to what the Petitioner did contractually, the Respondent agreed to pay the Petitioner for his investigation, which was legal according to ARS 20-321. The Petitioner individually sued the Respondent Ard in the Superior Justice Court for $9,999.00 and Accident Assistance Centers of Arizona, Inc. sued her on the contract in the Peoria Small Claims Court for $2,006 for the first party investigation, to find the third party. There were two separate cases with two separate Petitioners, one Petitioner Irwin Gary Roberts was in the justice court for $9,999.00 and the Petitioner's Corporation Accident Assistance Centers of Arizona Inc. was in the small claims court for $2,006. There was one common Respondent in the Small Claims Court Ard and one common Respondent in the Justice Court Patricia Ard.

The Respondent, Ard arranged with Jennings, Strouss & Salmon of Phoenix, Arizona to represent her Pro Bono. At this point in time, the attorney David Brnilovich, attorney and Rebecca Covell, attorney who work for Jennings, Strouss and Salmon moved to consolidate both cases. In an effort to speed this matter along, both Accident Assistance Centers of Arizona, Inc. one Petitioner and Irwin Gary Roberts the other Petitioner decided to consolidate. It was at this time the Defense team of Brnilovich and Covell deliberately changed the style of this case without any valid or legal reason, which mislead the court into believing there was one Petitioner and because of the value of the two separate claims exceeded $10,000. The court had no longer jurisdiction of this case as the Respondent did this by

changing the style of this case "Irwin Gary Roberts DBA Accident Assistance Centers of Arizona". The misstatement of the correct heading was repeatedly brought to the attention of Brnilovich and Covell and the courts, but they continued to perpetrate fraud on the court and on the Petitioner. See Appendix 1 Exhibit SOA Department of State that was conducted on June 6, 2002, that no trade name record was found to be registered under the name Irwin Gary Roberts. There can only be one reasonable conclusion this was done in bad faith and subject to Rule 11 Sanctions, which was denied by the Justice Court.

The Petitioner dropped the $9,999.00 defamation suit in the Justice Court so that the case would remain in Justice Court as the monies now would not exceed the jurisdictional limit.

The Petitioner refers to the transcript of June 20, 2002 and will explain several of the issues in the transcript and in the conclusion of the transcript will explain the chronological order what happened from the Justice Court to the Supreme Court of Arizona.

The Petitioner refers to the transcript of June 20, 2002 Appendix Q Exhibit A before Judge Lex Anderson CIV01-02671RA refer to page 15 line 22-25 page 16 line 1-4 where it states we also did not mislead the court as to the name of the Petitioner's business or his trade name or anything like that. We were just consolidating two cases together. One was the Petitioner himself against the Defendant and the other one was his business against the Defendant. Thus in this instance, Ms. Covell, an Officer of the court, committed fraud as the Petitioner attached Appendix Q Exhibits R, X, W, Z are attached to show how Defense Attorneys Brnilovich and Covell manipulated the court to

make the Petitioner and his corporation personally responsible by changing the style of this case "Irwin Gary Roberts DBA Accident Assistance Centers of Arizona, Inc." and by changing the style of the case, they made the Petitioner personally responsible and the Petitioner's Corporation personally responsible. Therefore, in a statement in open court she committed fraud as an Officer of the court she knowingly, willfully and willingly gave false testimony concerning material matters given with the willful intent to provide false testimony and not on account of confusion, mistake or faulty memory and therefore, violated Petitioner's Civil Rights in getting a fair hearing at the Summary Judgment trial.

Refer to transcript page 21 line 1-4 Appendix Q Exhibit A Ms. Covell states, when she found out that he was not authorized to settle third party claims, she fired him immediately, and she notified the Bar and the Department of Insurance that he had been engaging in this type of practice. The Defendant Ard reported the Petitioner to the Bar Association and the Arizona State Department of Insurance for being an Attorney. Ms. Covell lied to the court again because Petitioner had an affidavit from a notary Michael Wilenchich and one from himself stating that he never told anybody that he was an attorney but a public adjuster. Ms. Covell, an Officer of the court committed fraud on the court and she abused the process and a Summary Judgment was granted against the Petitioner on consumer fraud. The Petitioner refers to Appendix Q Exhibits 3, 5, and 8 from the Arizona State Department of Insurance that states he is allowed to settle third party claims. Case Closed.

Next refer to the transcript of June 20, 2002 page 21 lines 5-12 Appendix Q Exhibit A it required the Petitioner to engage in the unauthorized practice of law to violate the terms of his license as a public adjuster, the contract could not be performed without violating applicable law, and therefore is illegal and void, meaning that it had no legal force or affect from the very beginning. Therefore, the Petitioner cannot seek fees under a contract that does not exist. Ms. Covell, an Officer of the Court, perpetrated fraud on the court, as there is no statute or case law in the State of Arizona that states he is not allowed to settle first or third party claims under ARS 20-321. In addition, the unauthorized practice of law was abolished in the State of Arizona in 1984, therefore how could the contract be Void Abinitio. Therefore, the Petitioner was legal and Ms. Covell, an Officer of the Court, committed fraud on the court again. Ms. Covell, an Officer of the Court, violated the Petitioner's Civil Rights and abused the legal process by committing fraud on the court.

Next refer to transcript of June 20, 2002 page 23 lines 15-20 Appendix Q Exhibit A this shows contempt for the prior court proceedings and warrants Rule 11 Sanctions. The Defendant's final counterclaim pertains to the invalid lien statute, A.R.S. 33-420. Although Petitioner has denominated basically a contract line, we believe it operates to cloud title to Defendant's real property, then why would he file and why would he record this lien at the County Recorder's office, the place where liens on real property are records. Petitioner – the Defendant wrote a letter to the Petitioner on

November 7th requesting that the Petitioner remove this lien. He had not removed it within 20 days. Then only after we had appeared in this case did he remove this lien. Therefore, the Petitioner is entitled – Defendant is entitled to damages under the statute. Petitioner proves in Appendix A and Appendix Q, Exhibit ROL and either/ or Exhibit 16 that the lien was timely removed in 9 days. Ms. Covell, and Officer of the Court, committed fraud on the court and abused the legal process and Summary Judgment was granted against Petitioner because of her fraud.

Next refer to transcript of June 20, 2002 page 19 line 9-14 Appendix Q Exhibit A the Defendant Covell said in open court during the Summary Judgment hearing we know, however, that under the Arizona statute relating to public adjusters, that the Petitioner is not authorized to settle third party claims. We also know from the Utah case, and the Arizona cases that I cited my motion and reply that third party representation by a public adjuster is considered unauthorized practice of law. Ms. Covell as an Officer of the Court committed fraud on the court, as there is no Arizona statute that stated the Petitioner is not authorized to settle third party claims. There is also no appellate ruling in Arizona and the Supreme Court in Arizona has not ruled that a public adjuster cannot third party claims. Ms. Covell mentioned the Utah case, which lead the court to believe that that is the law in Arizona and it is not, it is the law in Utah.

The Petitioner has concluded his issues referred in the transcript of June 20, 2003 and what happened next in the Peoria Justice Court in Peoria, Arizona, Judge Anderson,

who never went to law school, granted the Respondent Ard's Motion for Summary Judgment on all 5 counts and the Petitioner and his Corporation Accident Assistance Centers of Arizona, Inc. both became liable, as the Judgment for $17,000 was entered in favor of the Respondents against the Petitioners.

Next the Petitioner brought an appeal to the Superior Court Maricopa County, the special action to the Court of Appeals, and a Petition for review to the Supreme Court of Arizona, all appeals were denied, discretionary, no legal opinion was ever given and every Motion, Response, Reply from small Claims Court to the Supreme Court of Arizona of the Petitioners was denied and all the Motions of the Respondent were granted. The Superior Court, the Court of Appeals and the Supreme Court of Arizona clearly had jurisdiction to hear this appeal, as the real party and interest was unable to show any prejudice because of a technical error because of a complicated rule or Petitioner's failure to file his appellate memorandum within 30 days. Petitioner made a good faith effort to follow the rules of Appellate procedure in Civil Appeals. Since the inception of this case, it was the Petitioner's first technical error made while filing a Motion that was not timely. As neither of the two conditions that must be shown under Arizona case law was present, all the state courts clearly had jurisdiction to hear the appeal and the real party and interest was unable to show any prejudice by Petitioner's failure to timely file his appellate memorandum and to accept the mere technical error and to accept jurisdiction. Therefore, Hill v. City of Phoenix 193 Arizona 299 (1999) which was ruled on by the Supreme Court State of Arizona is the law in the State of Arizona and the Petitioner asked the Supreme Court of Arizona to take judicial notice of it, as the Petitioner shepardized the Hill case and it is the law in the State of Arizona. Therefore, the state courts and the judges in the

state courts violated the Petitioner's Civil Rights according to the Constitution of the United States, as his case should have been heard on the merits as they abused their discretions.

The bottom line in this action is that Rebecca Covell, David Brnilovich, and the firm of Jennings, Strouss & Salmon in Phoenix, Arizona, have perpetrated a fraud on the Court, which could be found in the following: Appendix Q Exhibit A in the June 20, 2002 transcript page 15 lines 22-25, page 16 lines 1-4, page 21 lines 5-12, page 23 lines 15-20 and page 19 lines 9-14.

The Petitioner also references page 15 line 18-21 where Rebecca Covell says "the purpose of delaying in the first place so we could file our Motion for Summary Judgment, once we found out where the case was going to land, we went ahead with the Motion for Summary Judgment and we filed it." The Petitioner states that Respondent Counsel acted in bad faith and when he brought his Motions on December 10, 2001 Exhibit E in Appendix 1 and on May 8, 2002 Exhibit F in Appendix 1 for Motion for Entry of Judgment to dismiss counterclaim and to prohibit the use of witnesses and evidence by the Respondent, the Justice Court at that time should have dismissed their cause because they acted in bad faith. The Petitioner's Civil Rights were violated according to the 14th Amendment because his Due Process was violated and he could not have a fair hearing because he didn't have the Disclosure Statements that were deliberately not given to him by the Overt Acts of the Respondent.

> The Petitioner states in Appendix 1 Exhibit C that Petitioner's Motion for Reconsideration explains to the court the legal reasoning citing case law and the court deliberately and willfully ignored the undisputed law of the

State of Arizona, that judges are duty bound to follow. The Petitioner states on this issue that his 14th Amendment Rights to the Constitution of the United States were violated and his due process of law was taken away from him by the Overt Acts of Judge Anderson ignoring the law of the State of Arizona that he is duty bound to follow violated the Petitioner's Constitutional Rights. The Petitioner calls to the attention of this Court that Judge Anderson never went to law school so the Petitioner explained the law to Judge Anderson to no avail.

Next Petitioner refers to Exhibit G in Appendix 1, where the Petitioner brought a Rule 11 Sanction against the Respondent and the Attorneys and requested the Court to send a clear message to the Respondent and her Counsel that this kind of unethical conduct will not be tolerated by this court and the appropriate sanctions and significant fines should be reimbursed to the Petitioner of all the time and expenses attributed to this misconduct and the striking of Respondent's pleadings.

Next the Petitioner references Exhibit I in Appendix 1 where the Petitioner requests the Summary Judgment hearing should be continued at a later date. Petitioner cites 19 Arizona APP 574 James Wesley Young v. Douglas L. Peacock May 3, 1973. The Appeals Court held that the Trial Court abused this discretion on the Petitioner's Motion for Summary Judgment, where the hearing was premature. The Petitioner's Civil Rights were violated according to the 14th Amendment because his due process was violated and he could not have a fair hearing because he didn't have the Disclosure Statements that were deliberately not given to him by the Overt Acts of the Respondents. Cury v. Brown 440 F2D 259, 261, 262 1971. It is an abuse of discretion for not granting a continuance to a Pro Se Litigant.

The Petitioners refers to Exhibit ROL and Exhibit 1 in Appendix 1 where he removed the lien in 9 days where Rebecca Covell said on page 23 line 17-19 in the transcript "he had not removed it within 20 days", therefore, Rebecca Covell committed fraud on the Court, but a Motion of Summary Judgment was granted against the Petitioner again, thus violating the Petitioner's Civil Rights under the 14th Amendment of the Constitution of the United States as his equal protection and due process was violated by the Overt Acts of Rebecca Covell.

Petitioner refers to Appendix Q Exhibit R and X where Defense Counsel deliberately changed the style of the case and then in Exhibit W she changes the style of the case to correct heading. The Court can clearly see the fraud committed by Defense Counsel in this issues and Petitioner's Civil Rights were violated again as according to the 14th Amendment of the Constitution his property rights were violated as only Petitioner's Corporation should be responsible for the judgment against him. The Petitioner submits Appendix 1 Exhibit SOA from the State of Arizona, Department of State, done on the 6th day of June 2002, that Petitioner does not have a trade name, thus the Respondent committed fraud on the Petitioner changing the style of the case, so the Petitioner should not be liable personally and on his corporation, which should have never happened, as only his corporation should have been responsible. Exhibit SOA was hand delivered to Judge Anderson in the Summary Judgment hearing which is evidence that Irwin Gary Roberts was not doing business as Accident Assistance Center of Arizona, Inc.

Next Petitioner refers to Exhibits 3, 5, and 8 in Appendix Q, which refers to the Arizona State Department of Insurance closes the case against Petitioner and states Petitioner is

allowed to settle 3rd party claims thus, in the Summary Judgment transcript, Rebecca Covell committed fraud again. Next the petitions motioned the Peoria Justice Court for Rule 60 A, 60 C motion which was denied by the Justice Court.

I. REASON'S FOR GRANTING THE PETITIONS

The Arizona Supreme Court has decided important Federal questions that have not been, but should be settled by this court and has decided that question in a way that is inconsistent with other decisions of the Court.

The Petitioner cites the Norwest Bank "Minnesota" NA v. Symington 197 Arizona page 181, P3PD 1101 (App 2000). Relevance for Disclosure and Discovery purposes is quite broad, is not limited to evidence that is admissible at trial, but it includes information that may be useful because it could reasonable lead to admissible evidence. All that is required is to trigger a duty to disclose under Rule 26.1 (a) 4029 is a determination that a person "may" have relevant knowledge of a document "may" have knowledge of content. The Petitioner cites Rosier v. Ford Motor Company 573 F2D at 1339 the aim of Rule 60c (3) is to invalidate judgments which have been unfairly obtained. The Court of Appeals review of the denial of its Motion for Relief of Judgment under an abusive discretion of standard, and the Court considers it an Abuse of Discretion. For a trial court to act arbitrarily or make a decisions unsupported by fact or law, 16 ARS, Rules of Civil Procedure, Rule 26, 60c3.

The Petitioner's Civil Rights were violated according to the 14th Amendment because his due process was violated and he could not have a fair hearing because he didn't have the Disclosure Statements that were deliberately not given to him by the Overt Acts of the Respondents.
The leading case dealing with fraud on the Court in the United States v. Hazel Atlas Glass Company v. Hartford Empire Company.
1944 U.S. 328, 64 S. Ct. 997 88 LED 1250
Where Patent Judgment of the Circuit Court of Appeals and the District Court said that it was valid and infringed and was obtained by fraud. The public interests demanded that the judgments be set aside and even if the party against whom the judgments were redress had not exercised the highest degree of intelligence in the discovery of fraud.
Every element of fraud here disclosed demands to exercise the historical power of equity to set aside fraud hereby be gotten judgments – this is not simply a case of judgment obtained with the aid of a witness who on the basis of evidence is believed to be guilty of fraud, there was a carefully executed scheme to defraud not only the Patent Office, but the Circuit Court of Appeals.

Fraud perpetrated by an Officer of the Court so that the judicial machinery cannot perform in the usual manner is impartial task of adjudicating cases that are presented for adjudication.
441 F2D 930 Tuscano v. Cir (CA9 1971)

Equitable relief against fraudulent judgments is a remedy devised by courts to alleviate hardship arising from General Court MAD Rule that judgments should not be disputed after the expiration of the term at which they are extended.

Every element of fraud in Petitioner's appeal to the Supreme Court of the United States disclosed demands that exercise of the historical power of equity to set aside fraudulently begotten judgments.
Marsall v. Holmes 141 US 589 133 S. Ct. 62, 352 LED 870

The fraud perpetrated by Rebecca Covell, David Brnilovich and the firm Jennings, Strouss & Salmon in Phoenix, Arizona on the Petitioner are shown in specific acts in Summary Judgment hearing in the transcript in Appendix D Exhibit A and the pleading in Appendix D and Appendix 1. The fraud was extrinsic and subject to the relevant rules would support a bill for review. Hazel Atlas Glass v. Hartford Empire Company 64 S. Ct. 997, 322 U.S. 238 Hazel Atlas Glass Co. Hartford Empire Co. (U.S. Pa. 1944)

Petitioner cites Curry v. Brown because the Petitioner requested the Summary Judgment hearing should be continued at a later date, 440 F2D259, 261-262 (DC CIR 1971 Percuriam): Hudson v. Hardy 412 F2D 1091, 1094 (DC 1968 Percuriam): C. Winfrey v. Brewer 570 P2D 764: Harris v. Payte 440 F2D 315, 318 (7 CIR 1971) The courts failure to grant continuance to a Pro Se Plaintiff when a Motion to Dismiss was converted to one for Summary Judgment was an abuse of discretion. We therefore reverse the judgment, and a fair opportunity to respond, may be given prior to any further consideration of the Motion.

The Petitioner has a case of action under 42 U.S.C. 1983, Title 28, 1343, and the 14th Amendment to the Constitution of the United States against the Defendant Respondent in the action and the Defense Attorneys Rebecca Covell and David Brnilovich and the firm Jennings, Strouss & Salmon as the Petitioner alleges under color of the State of Arizona in the State Courts that the action of the Respondent and Defense Counsels to deprive Petitioner of his rights secured by the Constitution of the United States because of this fraudulent conspiracy by the Defendant and her attorneys in their actions by the Overt Acts . Flagg Bros v. Brooks 436 U.S. 149, 98 S. Ct. 1729, 1733 56 LED 2 D 185, 186 (1978)
Sterling v. Village of Maywood 579 F2D 1350, 1353 No. 6 7th Cir 1978

The 14th Amendment to the Constitution of the United, to redress the deprivation under color of state law the due process and equal protection of the law by the Overt Act of the Defendant and her attorneys, by the Overt Acts of fraud on the court deprived the Petitioner of a fair hearing and the Summary Motion Judgment on all 5 counts should be overturned and dismissed.

Arizona Courts recognize the Rules of Civil Procedure and dispose of cases on the merits where there are errors procedure can be characterized as harmless and non prejudicial to mislead the other party. Hanen 102 Arz at 9, 423, P2D

Petitioner states see Appendix D Exhibit A, where it states APPELLANT'S APPEAL MEMORANDUM TO REPLACE THE PREVIOUS PLEADING CAPTIONED ERRONEOUSLY AS RESPONSE TO REPLY IN SUPPORT OF DEFENDANT'S APPLICATION FOR ATTORNEY'S FEES, IF THIS EXHIBIT A WAS

PLACED AS And (2) the Appellee can demonstrate that he was prejudiced because he was not informed on the issues on appeal. In this case, Appeal and Error 775, ON APPEAL COURTS STRIVE TO DISPOSE OF CASES ON THEIR MERITS RATHER THAN ON HARMLESS TECHINICAL ERROR. The decisions in Performance Funding is consistent with the decisions of the Arizona Supreme Court in Hill v. the city of Phoenix, 193 Ariz. 299 (1999) in which the Supreme Court held (1) That where the appellate court has general subject matter jurisdiction as well as personal jurisdiction over the parties, the court should strive to resolve an appeal on the merits; and (2) An appellant who fails to follow appellate procedure does so at the risk of losing his right to judicial review on the merit, and such sanction should generally result upon a showing of prejudice to an adverse party; absent such prejudice, society's interests in adjudicating appeals on the merits should govern.

The Petitioner respectfully requests this Supreme Court of the United States to review Appendix D Exhibit D Superior Court State of Arizona in and for the County of Maricopa case number CV 2002-017209 which is the Appellant's Motion for Reconsideration of the Court's Decision to Dismiss the Appellant's Appeal for Failure to Timely File Their Memorandum and to review the Petition for Special Action in the Court of Appeals State of Arizona Division 1 Appendix A and to review the Petition for Review to the Arizona Supreme Court State of Arizona 02-0331. The Petitioner's legal arguments and important facts are in the above documents for your review. The Petitioner hopes that this Court will accept jurisdiction of Petitioner's Writ of Certiorari.

THE PETITIONER REFERS TO THE ANNOTATED MODEL RULES OF PROFESSIONAL CONDUCT

THIRD EDITION
UNDERSTANDING LAWYERS, ETHICS, AMERICAN BAR ASSOCIATION

Advocate Rule 3.3 Candor toward the tribunal

A lawyer should not knowingly make a false statement of material facts or law to a tribunal

Offer evidence that the lawyer proves to be false.

In a statement in open court may be properly made only when the lawyer knows the assertion is true or believes it to be true on a basis of a diligent inquiry

A legal argument based on knowingly false representation of law constitutes dishonesty toward the tribunal

Mode code comparison a lawyer should not knowingly make a false statement of law or fact

There is no ethical violation more damaging to the administration of justice that the knowledgeable use by a lawyer of false testimony in the judicial process Florida Bar v Right Myer 616SO2D953, 955 Fla 1993 quoting the Florida Bar against Dodd 118 SO 2D17, 19 Fla 1960

Although a lawyer paramount duty is to pursue the clients vigorously that duty must be met in conjunction with, rather than in opposition to,

other professional obligations with, rather than an opposition to other professional obligations.
Thorton v. United States 357 A2D 429 (DC) Cert denied 429 US 1024 (1976) Thus the lawyers first duty is to the court and to the proper administration to justice
State v. Taylor 648 SO2D S01 F-A 1995
Implicate is the lawyers role as an officer of the court it is the general duty of candor
United States v Shaffer Equipment Co. 11F3D450 4th Cir 1993

The model rules require that a lawyers statement of material factor of law be truthful
See State ExRel Oklahoma Bar Association v. Johnston 863 P2D 1136 (Okla 1993) Any charge of misrepresentation to a judge or a tribunal also carries with it included or implied count of making false statements in violation of Rule 3.3a (1)
The requirement of truthfulness applies to statements made orally to the court
People v. Bertagnolli 861 P2D 717 Colorado 1993.

Paragraph 2 False evidence may not be offered knowingly

The Respondent's attorneys, David Brnilovich and Rebecca Covell are also bound by the Ethical Rules of Conduct, Rule 42 of the Supreme Court of Arizona, which states that an attorney should not knowingly make false statements of facts or law to a tribunal.

Perjury is commonly defined as the willful insertion as to a matter of fact, opinion, belief, or knowledge, made by a witness in the judicial proceeding as part of his evidence, either upon oath or in any form allowed by law to be substituted for an oath, whether such evidence is given in open court or in an affidavit or otherwise, such assertion being material to the issues or point of inquiry and known to such witness to be false.

Blacks law dictionary (1025 5ED 1979); see also United States v. Shonubi 988 F2D 84, 88 2nd Cir. 1993. For the purpose of justice enhancement under federal sentencing guidelines, perjury includes false testimony concerning material matters, given with willful intent to provide false testimony and not on an account of confusion, mistake or faulty memory.

Perjury is a statutory felony See Knix v. Whiteside, 475 US 157 1986

Rebecca Covell, an Attorney in the State of Arizona and an officer of the Court in the State of Arizona had a responsibility under the American Bar Association ethical rules for attorneys and under the rules of the Supreme Court State of Arizona Rule 42, Arizona Rules of Professional Conduct not to commit fraud in this civil case herein by knowingly, willfully and willingly gave false testimony concerning material matters given with the willful intent to provide false testimony at the Peoria Justice Court Summary Judgment hearing on June 20, 2002 in open court before Judge Lex Anderson and not on account of confusion, mistake or faulty memory. David Brnilovich,

Attorney and Defendant in this action was present in the courtroom at the entire hearing.

> The first element is that Rebecca Covell, an Officer of the Court in Arizona, with David Brnilovich, present, committed fraud on the legal process, because Ms. Covell had an alternative purpose by committing fraud by her willful acts of the judicial process, not proper in the regular conduct of the proceeding, and by Ms. Covell's Overt Acts under color of state law before Judge Anderson of the Peoria Justice Court, in Peoria, Arizona, violated Plaintiff's Civil Rights under the 14th Amendment of the United States Constitution, as Plaintiff has a vested property right in his licenses 28761 and 28762, issued by the Arizona State Department of Insurance, to settle automobile claims. Because Ms. Covell, in open court, stated that according to the statutes and laws in Arizona, the Plaintiff is not legally allowed to settle automobile claims she committed fraud, as there are no statutes or laws in Arizona that state a public adjuster cannot settle first and third party claims. The Plaintiff's due process and equal protection of the law were violated, as the Plaintiff was not afforded a fair trial as Plaintiff under his statutory license ARS 20-321 is permitted as a public adjuster to either investigate or negotiate or otherwise adjust insurance settlements and by the Overt Acts of Ms. Covell's fraud, a Summary Judgment Motion was granted against the Plaintiff for Consumer Fraud violating the Plaintiff's Constitutional Rights.

The Plaintiff attaches Appendix 1 Exhibit C1, Senate Bill 216 State of Arizona 45th Legislative Second Regular Session 2002, "Mr. Madakaza states the bill

clarifies that an adjuster either investigates or negotiates or otherwise adjusts insurance settlements." The Senate Bill was carried by role call vote of 6-0-0 and it was signed Nancy L. DeMichele, Committee Secretary.

The second element is that the Plaintiff's public adjuster licenses issued by the Arizona State Department of Insurance has been in good standing for over 10 years and these licenses are not a privilege, but a right, as shown in the following cases, as a property right that the Plaintiff is entitled to enjoy and earn a good living under the 14th Amendment to the Constitution.

The Plaintiff has a vested property interest in his public adjuster's licenses and being a public adjuster is a right and not a privilege as shown in the following cases, where injury has happened for which an injured party has a course of action because he has a vested property right that is guaranteed by due process because he has a state license.
LOTT v. HALEY 1949 LA 310 SO 2D 521

A state dental license has a property interest and is entitled to Due Process before the license
is taken away or impaired.
COMEAU v. Arizona State Board of Medical Examiners 116 Arizona 102,106,108,1993
P2D 1066, 1070

The practice of a profession is a right not just a privilege and before the State can control that right, it must afford Due Process of law for the person that has that state license.
Schwillerstrom v. State 180 Arizona 468, 885, P2D 156, 159 App 1994 citing application of Lavene 97 Arizona 880, 90-91 397 P2D205, 206, 207 1964

A professional license is a valuable property right reflected in a money effort and an opportunity
to be in business for yourself and a chance for the opportunity for employment given an
individual earning capacity which may not be revoked without due process of law and a
state medical license was found to be property and found to be a equitable distribution in the divorce.
O'Brien v. O'Brien 1985 66 NY 2D 576 498 NY S2D 243 NE2D 712

Where injury has happened for which an injured party has a course of action, and where such course of action is a vested property right which is protected by the guarantee of Due Process, 14th Amendment. The 14th Amendment undoubtedly intended that there shall be no deprivation of property, equal protection and security shall be given to all like circumstances, enjoyment, personal and Civil Rights and all persons should be entitled to pursue their happiness and enjoy their property
Barbier v. Connelly 113 U.S. 27, 28 LED 923 S. Ct. 357

The jurisdiction in this case also arises under 14th Amendment to the Constitution of the
United States:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of live, liberty, or property, without Due Process of law;nor deny to any person within its jurisdiction the equal protection of the laws.

The Overt Acts of Rebecca Covell in open court with David Brnilovich present before Judge Anderson, who never went to law school, of the Peoria Justice Court in Arizona violated Plaintiff's Civil Rights under the 14th Amendment to the Constitution, as Plaintiff's Due Process and equal protection of the law was violated by Rebecca Covell's perjury stating the law in Arizona is that the Plaintiff cannot settle automobile claims, as Plaintiff's licenses 28761 and 28762 are a right and not a privilege. The Plaintiff was deprived of a fair hearing and his due process was violated by the Overt Acts of Ms. Covell, smashing Plaintiff's property right under color of state law, as it can be clearly seen, Ms. Covell had an alternative purpose and committed willful acts of the judicial process, not proper in the regular conduct of the proceeding, thus Plaintiff's Constitutional Rights were violated, as Plaintiff did not get to enjoy his property right in this trial by not receiving a fair trial and losing on all 5 counts at the Summary Judgment hearing, violating his Constitutional Rights.

Hoffman v. Halden 268 F2D 280 CA 9 OR 1959 it states in 2 cases, one involving the criminal statute and one involving the civil statute, the court reached similar results which we can equate, namely that a specific intent to violate ones constitutional rights was required under the criminal statues and conduct which was purposefully discriminating, as to such rights are required under the civil statute.

Hillard v. Williams 540 F 2D 220 (6th Cir. 1976) United States Court of Appeals Sixth Circuit whether guilty or innocent, Mrs. Hilliard had a due process right to a fair trial. Defendant Williams withheld an F.B.I. report indicating that there was no blood on Mrs. Hilliard's jacket. Moreover, Williams failed to prevent or to correct

deceptive and misleading testimony given by Defendant Clark from which the jury could have concluded that the jacket was stained with the victim's blood. Further, it appears that Williams actually instructed Clark to testify at least evasively, if not falsely. We believe that by these acts and omissions, Defendant Williams deprived Mrs. Hilliard of her constitutional right to a fair trial.

The Defendant's in this case have violated Plaintiff's Civil Rights under Title 42 1983 as shown in these pleadings of the specific acts of their fraud, which "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or cause s to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

The specific acts of Rebecca Covell, an Officer of the Court, by perpetrating an injustice by a provision of the Judicial Process was the accomplishment of her fraud as an Officer of the Court. The Plaintiff's Civil Rights by this act of fraud and violated Plaintiff's Constitutional rights. Title 28 U.S.C.A. § 1343 expressly grants jurisdiction to the Supreme Court of the United States in civil actions for violation of Civil Rights.

The civil "is a concerted action or a sort of civil partnership in commission of injury by where one may act for his partner and both may be bound as in this case David Brnilovich, an Officer of the Court was Rebecca Covell's Supervisor.

The section of a Civil Rights Act giving a civil action for the deprivation of any rights, privileges, or immunities

secured by the Constitution and laws of the United States is not limited only to due process violations as distinguished from denials of equal protection of laws. 42 U.S.C.A. § 1983; U.S.C.A. Const. Amend 14.

Rebecca Covell, as an Officer of the Court and David Brnilovich as an Officer of the Court, her Supervisor, and Jennings, Strouss and Salmon, the owner of the firm, have all violated the Constitutional Rights of the Plaintiff because of their fraud and the specific acts shown in these pleadings by their Overt Acts of committing fraud on the court and in the fact that the Plaintiff did not get a fair trial, as he lost of 5 Summary Judgment Motions and his Constitutional Rights were violated under 1983, 1343 and the 14th Amendment to the Constitution that his equal protection and due process of the law was violated because the Plaintiff was entitled to a fair trial under the laws of the Constitution of the United States.

The Plaintiff states his license is a valuable property right reflected in a money effort and an opportunity to be in business for himself and a chance for an opportunity given an individual earning capacity which may not be revoked under due process of law. The Defendant, Rebecca Covell by committing fraud and giving false testimony to the Justice Court by this Overt Act, violated Plaintiff's due process of law to a fair trial under color of state law and thus violating Plaintiff's Constitutional Rights. The Plaintiff has clearly shown that by the Overt Acts of this Defendant and other parties, there was a conspiracy which violated Plaintiff's Civil Rights under the 14th Amendment to the Constitution by taking away enjoyment of Plaintiff's property rights, his licenses 28761 & 28762 so the Plaintiff did not get a fair trial and Plaintiff also states under Title 1983 and 1985 the Defendant conspired so that the Plaintiff would not get a fair trial under color of state law and Plaintiff's Constitutional Rights were violated.

This case also represents other issues of equal protection and due process. A party who is represented by an attorney is not sanctioned for willfully failing to follow the Rules of Civil Procedure for over six months by failing to file a Disclosure Statement, yet a party no represented by a lawyer who made a good faith effort to follow the rules is given the ultimate sanction by being denied the fundamental right to have his case heard on the merits because he was a mere thirty days late following a confusing rule that he did not willfully fail to follow that and that did not prejudice the adverse party on the merits and such action should generally result upon showing prejudice the adverse party on the merits and such action should generally result upon showing prejudice to an adverse party: absent such prejudice, society's interest in adjudication appeal on the merits should govern there was no showing of prejudice by the adverse party.

The court routinely permits attorneys to correct technical errors of the rules but for people who represent themselves, the State Courts in Arizona held the Petitioner to the strict letter of the law, which is a violation of the Equal Protection of the Law under the United States Constitution.

Where adequate Notice of Appeal has been given, an opposing party, fairness demands that no mere technical error should prevent the Appellate Court from reaching the merits of the appeal. 17B A.R.S. Civil Appellate Rules Rule 8C Arizona

Arizona Courts dispose of cases on the merits when there are errors on procedure can be characterized as harmless and non-prejudicial to mislead the other party. Hanen 102 Z at 9, 423 P2D

Federal Due Process recognizes there is "a duty to insure that Pro Se Litigators do not lose their right to a hearing on their claim due to ignorance to technical requirements."
AHMED v. County of Orange 924 FLD 1962 C.A. 9 California 99

Federal Due Process requires that Pro Se Litigators be given a meaningful opportunity to be heard. Little v. Streater 42 US1 – 1981

Equal Protection of the Law may be implicated when different rules apply to Pro Se Litigators. HINES v. Kerner 404 US 519-1972

We have repeatedly emphasized that a Pro Se Litigant is entitled to certain procedural protections, James 269 F3D at 1126

Garaux 739 F2D at 439 – 40, the Protection of Pro Se Litigants rights is particularly important when highly technical requirements "might result in the loss of the opportunity to prosecute or defend the lawsuit on the merits."

243 F3D ABDELZHER excellence CA9 Wash. 2000. We accord Pro Se Litigants liberal treatment in asserting their claims especially with regard to formal requirements.
CLIM v. INS 224 F3D 929 9th CIR 2000

Rebecca Covell, an Attorney in the State of Arizona and an officer of the Court in the State of Arizona had a responsibility under the American Bar Association ethical rules for attorneys and under the rules of the Supreme Court State of Arizona Rule 42, Arizona Rules of Professional Conduct not to commit fraud in this civil case herein by knowingly, willfully and willingly gave false testimony

concerning material matters given with the willful intent to provide false testimony at the Peoria Justice Court Summary Judgment hearing on June 20, 2002 in open court before Judge Lex Anderson and not on account of confusion, mistake or faulty memory. David Brnilovich, Attorney and Defendant in this action was present in the courtroom at the entire hearing.

In conclusion, the Petitioner presented his Statement of Facts to this Supreme Court of the United States and has shown some of the specific acts that the Respondents have done in this case in violating the Petitioner's Civil Rights according to the Constitution of the United States, Petitioner has exhausted all his legal remedies with the Supreme Court in the State of Arizona which he has to be brought to the Supreme Court of the United States for his appeal to overturn what the Supreme Court in the State of Arizona decided and not accepted jurisdiction of the Petitioner's appeal from the Justice Court to the Arizona Supreme Court.

The jurisdiction in this case also rises under the 14th Amendment to the Constitution of the United States, which guarantees all citizens of the United States equal protection and due process of law to enjoy their life and property.

The Petitioner's Civil Rights have been violated by the following sites of various statutes and case law, which given this Supreme Court of the United States jurisdiction over this case as the Petitioner's Civil Rights have been violated by the State Courts, the Judges, the Defense Counsel and the Respondent.

The jurisdiction in this case also arises under Title 28 #1343 in that the District Court shall have jurisdiction of any civil action by law to be commenced by any person. The District Court will have original jurisdiction.

To recover damages for any injury to his person or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mention in Section 1985 of Title 42.

To recover damages from any person or to aid in presenting any wrongs mentioned in Section 1985 of Title 42, which he had knowledge about to occur and power to prevent.

To redress the deprivation, under color of any state law, statute, ordinance, regulation, custom, or usage of any right, privilege, or immunity secured by the Constitution of the United States or by any Act of Congress providing for the equal rights of citizens

or of all persons within the jurisdiction of the United States. To recover damages or to secure equal relief under any Act of Congress provided for the protection of Civil Rights, including the right to vote.

The jurisdiction in this case also arises under Title 42 US CA 1983 civil action of deprivation of rights. Every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or territory subjects or causes to be subjected, any citizen of the United States or other persons within the jurisdiction thereof, to the deprivation of any rights, privileges or unities secured by the Constitution and laws, shall be liable to the persons injured in any action of law, suit in equity, or other proper proceedings for redress.

II. THE ARIZONA SUPREME COURT HAS DECIDED IMPORTANT FEDERAL QUESTIONS THAT CONFLICTS WITH OTHER STATES

The Arizona Supreme Court has decided important Federal questions that have not been, but should be settled by this Court and has decided that question in a way that is inconsistent with other decidions of the Court.

Conclusion: For the foregoing resaons, the petitioner respectfully requests that this court grants the petition for writ of certiorari; and reverse the decision of the Arizona Supreme Court

Respectfully submitted,

Irwin Gary Roberts
5629 South Sailors Reef Road
Tempe, Arizona 85283
(480) 491-4020

APPENDIX A

Docket Number_____

In the Supreme Court of the United States

CV-03-0036-PR

Irwin Gary Roberts,
Petitioner,
v.
Patricia Jeanne Ard,
Respondent

Decisions of Arizona State Courts

TABLE OF CONTENTS

Appendix A – Decisions of Arizona State Courts

Supreme Court, State of Arizona
CV-03-0036-PR May 15, 2003.....page 37

Court of Appeals State of Arizona
1CA CA 0-0331 Judge Michael D. Jones
January 2, 2003.....page 39

Superior Court of Arizona, Maricopa County
CV 2002-017209 Judge Michael D. Jones
November 25, 2003.....page 40

Superior Court of Arizona, Maricopa County
CV 2002-017209 Judge Michael D. Jones
October 24, 2002.....page 42

Peoria Justice Court State of Arizona, County of Maricopa
CV01-02761RA Judge Lex E. Anderson
August 12, 2002.....page 43-44

Order March 5, 2003.....page 45

APPENDIX A
SUPREME COURT
STATE OF ARIZONA

402 ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON
PHOENIX ARIZONA 85007-3329
TELEPHONE: (602) 542-9396

May 15, 2003
RE: IRWIN ROBERTS v HON. MICHAEL JONES/ PATRICIA ARD
Arizona Supreme Court No. CV-03-0036-PR
Court of Appeals Division One No. 1 CA-SA 02-0331
Maricopa County Superior Court No. CV 02-017209

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on May 15, 2003, in regard to the above referenced case:

ORDERED: Accellerated Motion Petimiires [sic] Motion for Petition for Review Should be Ruled on at Once as Pelitoner [sic] Has Debters [sic] Hearing on April 24, 2003 and Seeks Relief in Federal Court if Petitorer [sic] Loses = DENIED.

FURTHER ORDERED: Petition for Review = DENIED.

A panel composed of Chief Justice Jones, Vice Chief Justice_McGregor and Justice Ryan participated in the determination of this matter.

Record returned to the Court of Appeals, Division One, Phoenix, this 15th day of May, 2003.

Noel K Dessaint, Clerk

TO:
Irwin Gary Roberts
David Brnilovich, Jennings Strouss & Salmon PLC, Arrowhead Office Rebecca L Covell, Jennings Strouss & Salmon PLC, Collier Building Hon Michael D Jones, Judge, Maricopa County Superior Court, Central Court Building
West Publishing Company
Lexis-Nexis
Philip G Urry, Clerk, Court of Appeals, Division One, Phoenix
kg

STATE OF ARIZONA

IN THE COURT OF APPEALS

DIVISION ONE

IRWIN GARY ROBERTS,

Petitioner

v.

THE HONORABLE MICHAEL JONES, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of Maricopa

County

Respondent Judge,

PATRICIA ARD,

1-CA-SA 02-0331

DEPARTMENT B

MARICOPA

Superior Court
No. CV-02-017209

ORDER

The court has considered the Petition for Special Action filed by Petitioner Roberts.

In the exercise of its discretion, IT IS ORDERED the court declines to accept jurisdiction of the Petition.

DATED this 2nd day of January, 2003.

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

11/25/2002

HONORABLE P.
MICHAEL D. JONES

CLERK OF THE COURT
M. Espinoza Deputy
CV 2002-017209

FILED: 12/02/2002

IRWIN GARY ROBERTS

IRWIN GARY ROBERTS
5629 S SAILOR REEF RD
TEMPE AZ 85283

V.

PATRICIA ARD

DAVID BRNILOVICH

PEORIA JUSTICE COURT
7420 W CACTUS RD PEORIA
AZ 85381

MINUTE ENTRY

The Court has received and reviewed Defendant's Motion for Reconsideration. Good cause not appearing,

IT IS ORDERED denying same.

The foregoing instrument is a full, true and correct copy of the original on file in this office.
Attest August 11, 2003
MICHAEL K. KEANES, Clerk of the Superior Court of the State of Arizona, in and for the County of Maricopa
By L. Johnson Deputy

1 CA-SA 02-0331 January 2, 2003

A true copy of the foregoing order was mailed
January 2, 2003 to:

Mr. Irwin Gary Roberts
Propria Persona
5629 South Sailor's Reef Road
Tempe, AZ 85283
Petitioner

Mr. David Brnilovich
Jennings, Strouss & Salmon, P.L.C.
The Collier Center, 11th Fl
201 East Washington Street
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and

Ms. Rebecca L. Covell
Jennings, Strouss & Salmon, P.L.C.
The Collier Center, 11th Fl
201 East Washington Street
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Attorneys for Real Party in Interest

Honorable Michael D. Jones, Judge
MARICOPA COUNTY
SUPERIOR COURT
Central Court Building
201 West Jefferson Street
Phoenix, AZ 85003-2205
Respondent Judge
Glen D. Clark. Clerk
The foregoing instrument is a full, true
and correct copy of the original on file in this office.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/24/02
HONORABLE MICHAEL D. JONES

IRWIN GARY ROBERTS

v.

PATRICIA ARD

FILED
10/31/2002
CLERK OF THE COURT
FORM V000A
CV 2002-017209
P. M. Espinosa, Deputy
Filed:_____
IRWIN GARY ROBERTS
5629 S. SAILOR REEF RD
TEMPE AZ 85283

DAVID BRNILOVICH

PEORIA JUSTICE COURT
7420 W CACTUS RD
PEORIA AZ 85381
PEORIA JUSTICE COURT
REMAND DESK CV-CCC

MINUTE ENTRY

The Court has received and reviewed Appellee/Defendant Ard's Motion to Dismiss Appeal for Failure to File Appellant Memorandum, Appellant's Response and Supplement.

Good cause appearing.

It is ORDERED granting Appellee/Defendant's Motion to Dismiss Appeal.

IT IS FURTHER ORDERED remanding this matter back to the Peoria Justice Court for all further proceedings.

Docket Code 506

ATTEST 6/5/03 Phillip G. Urry, Clerk of Division One Court of Appeals, State of Arizona

David Brnilovich – 006308
Rebecca L. Covell – 021033
JENNINGS, STROUSS & SALMON, P.L.C.

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201 East Washington Street
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Attorneys for Defendant Patricia Ard

CV-2002-019209

**IN THE PEORIA JUSTICE COURT
IN THE STATE OF ARIZONA, COUNTY OF MARICOPA**

IRWIN GARY ROBERTS, dba ACCIDENT ASSISTENCE CENTER OF AZ, INC.,

Plaintiff,

vs.

PATRICIA ARD,

Defendant.

No. CV01-02761RA

JUDGMENT

A Motion for Summary Judgment having been filed in this matter by Defendant Patricia Ard, and the Court having heard oral argument by Plaintiff and counsel for Defendant, having considered the memoranda filed and the entire record in this proceeding, and as a result of this Court having found after due deliberation and consideration that there is no genuine issue as to any material fact, and that Defendant is entitled to judgment

as -a matter of law: ,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the Motion for Summary Judgment of Defendant Patricia Ard be and the same is hereby granted;
2. That Plaintiff have and recover nothing from Defendant Patricia Ard;
3. That Plaintiffs action be and the same is hereby dismissed as to Defendant Patricia Ard;
4. That Defendant Patricia Ard take judgment on her counterclaims against Plaintiff in the total sum of $9,999 as and for damages under the following: A.R.S. § 44-1521, *et seq.*, for consumer fraud, *McClinton v. Rice,* 76 Ariz. 358, 365, 265 P.2d 425, 429 (1953) for slander per *se,-National Union Indemnity Co. v.* ***Bruce*** *Bros.*, 44 Ariz. 454, 464, 38 P 2d 648, 652 (1934) for disgorgement of the funds in the amount of $2,006 currently being held by Plaintiff under the void contract, and for statutory damages under A.R.S. § 33-420.
5. That Defendant Patricia Ard be awarded $48.00 as and for her costs in this matter.
6. That Defendant Patricia Ard be awarded $7000.00 as and for attorneys' fees.
7. Total Judgment entered in favor of Patricia Ard and against Irwin Gary Roberts d/b/a/ Accident Assistance Center of AZ, Inc. is $17,047 together with interest thereon at the maximum legal rate, accruing from the date of Judgment until paid.

That this Judgment is entered pursuant to Rule 54(b) of the Arizona Rules of Civil Procedure, and the Clerk of the Court is hereby directed that said Judgment is entered forthwith, there being no just reason appearing for delay in entering this Judgment.

DATED: 8/12/02

Lex E. Anderson
Judge of the Peoria Justice Court

PEORIA JUSTICE COURT
7420 W. CACTUS ROAD, PEORIA, AZ 85381
(623) 979-3234
www.maricopa.gov/justicecourts
Case Number: CV01-02761RA

PLAINTIFF:
IRWIN GARY ROBERTS
5629 S. Sailor's Reef Rd
Tempe, AZ 85283
(480) 491-4020

DEFENDANT:
PATRICIA ARD

ATTORNEY:

ATTORNEY:
JENNINGS, STROUSS
& SALMON

THE COLLIER CENTER
11TH FLOOR
201 E. WASHINGTON ST.
PHOENIX, AZ 85004-2385
(602) 262-5911

RULING ON MOTION

The Plaintiff having filed a Motion:

FOR CORRECTING A CLERICAL ERROR IN A JUDGMENT
RULE 60A, 60C on this day: March 5, 2003
% The Plaintiff/Defendant not having responded;
% The Court after reviewing that which was submitted;
IT IS THEREFORE ORDERED Granting/Denying the Motion

Date:_____

_____
Judge

Copies mailed to above addresses
this date:

APPENDIX B

Docket Number_____

In the Supreme Court of the United States

Irwin Gary Roberts,
Petitioner,
v.
Patricia Jeanne Ard,
Respondent

Petition for Special Action

TABLE OF CONTENTS

APPENDIX B PETITION FOR SPECIAL ACTION

Exhibit A where the Petitioner Raised the Appropriate Issues of Material Facts on Every Issue for Which the Real Party and Interest was Granted Summary Judgment.....page 50
Exhibit B & B1 – The Real Party Affidavits That Lack any Evidence of Damages.....page 50
Exhibit C – That Shows the Justice Court was Informed of the Law Regarding Summary Judgments in the Petitioner's Motion for Reconsideration.....page 50
Exhibit E & F – Two Separate Motions Asking Defendant's to File Disclosure Statements Over a 5 Month Period.....page 51
Exhibit G (refer to Appendix 1) – Plaintiff's Motion for Rule 11 Sanctions Oral Arguments Requested.....page 51
Exhibit H (refer to Appendix 1) – Plaintiff States Style of Case is Incorrect and the Correct Style of This Case is Shown in this Pleading.....page 51
Exhibit ROL (refer to Appendix 1) Liens.....page 51
Exhibit I (refer to Appendix 1) – Plaintiff's Response to Defendant's Motions for Oral Arguments for Summary Judgment on June 20, 2002 Should be Denied and Continued at a Later Date.....page 55

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IRWIN GARY ROBERTS,	1 CA-SA 02-0331
Pro Per,	MARICOPA COUNTY SUPERIOR COURT NO.
PETITIONER,	CIV 2002-017209
vs.	PETITION FOR SPECIAL ACTION
THE HONORABLE MICHAEL JONES, Judge of the Superior Court of the State of Arizona, in And for the County of Maricopa,	
RESPONDENT JUDGE,	
PATRICIA ARD,	
REAL PARTY IN INTEREST	

The petitioner, Irwin Gary Roberts, respectfully requests that this Court accept jurisdiction of this Special Action and reverse the Respondent Judge's ruling dismissing the Petitioner's appeal for failing to timely file his Appellant Memorandum. The minute entry dismissing the petitioner's appeal is attached as the first page of Appendix 1. The

reasons supporting this request are set forth in the following memorandum.

DATED this 18th day of December, 2002.

IRWIN GARY ROBERTS
Petitioner
Pro Per

MEMORANDUM OR POINTS AND AUTHORITIES

I. JURISDICTIONAL STATEMENT

The petitioner seeks special action relief from an order of the Superior Court dismissing his appeal from the Peoria Justice Court because the Appellant's memorandum was not timely filed even though the Petitioner made a good faith attempt to do so and there was no prejudice to the Appellee. This Court has jurisdiction in this matter under Article 6, Section 9 of the Arizona Constitution, A.R.S. Section 12-120 and Rule 3(c) of the Rules of Procedure for Special Actions.

II. ISSUE PRESENTED

Did the Respondent Judge abuse his descretion when he dismissed the Petitioner's appeal for the Appellant's failure to file his memorandum within thirty days as provided by the Rules of Civil Appellate Procedure even though there was no prejudice to the Appellee, the Superior Court was not divested of jurisdiction and the Appellant made a good faith effort to follow the rules of Appellate Procedure on Civil Appeals?

III. MATERIAL FACTS

The Peoria Justice Court granted a motion for summary judgement against the petitioner even though the petitioner files a timely response to the Real Party in Interest's motion for summary judgement which included affidavits raising genuine issues of fact on each issue for which

the Real Party in Interest never submitted any proof of damages for any of the six counts that she was awarded summary judgement on, and yet the justice court awarded her $9,999.00 - the jurisdictional limit. See Exhibit A, Appendix 1 attached hereto which shows that the petitioner raised appropriate issues of material facts on every issue for which the Real Party in Interest was granted summary judgement. See Exhibit B and B1, Appendix 1 for Real Party in Interest's affidavits that lack any evidence of damages. See Exhibit C, Appendix 1 that shows the justice court was informed of the law regarding summary judgments in the petitioner's motion for reconsideration. The petitioner timely appealed the Justice Court's ruling granting the motion for summary judgment to the Superior Court.

The petitioner consulted the Superior Court Rules as to how to proceed on his appeal. Rule 13 dealing with Appellate Memoranda states:

"In all appeals based on a stipulated record (emphasis added), the parties shall file memoranda to aid the Superior Court in determination of the appeal."

In the petitioner's case there was no stipulated record and therefore the petitioner thought that he was precluded from filing a memorandum in support of his appeal. The petitioner had previously set forth everything that is required by Rule 13 to be in the Appellant's Memorandum in his pleading entitled "Response to Reply in Support of Defendant's Application for Attorney's Fees" so that if the petitioner lost in Justice Court, the Superior Court on appeal would be informed of the facts of the case, each issue to be decided in appeal, the legal arguements supporting the petitioner's position on each issue and a conclusion. The Real Party in Interest

knew that the issues on appeal would be and what the petitioner's legal argument for each issue on appeal would be. See Exhibit B Appendix D attached hereto - Response to Reply in Support of Defendants Application for Attorney's Fees.

The Real Party in Interest in this matter, who was represented by counsel at trial, never filed a Disclosure Statement as required by Rule 26.1 even though the petitioner files two separate motions asking the Justice Court to require them to do so over a five month period of time. See Exhibits E and F, Appendix 1. Their excuse for not filing a disclosure statement was that they were working on a summary judgement motion for five months which is not a valid reason under Arizona law for not filing the mandatory disclosure statement.

For over six months the Real Party in Interest's counsel chose to ignore the mandatory filing requirements of Rule 26.1. Yet when the petitioner failed to file his Appellate Memorandum within thirty days, counsel for the Real Party in Interest filed a Motion to Dismiss the appeal, but failed to allege any prejudice to them as a result of the petitioner's failure to do so.

The Real Party in Interest's counsel also committed numerous acts of misrepresentation which the petitioner documented and asked the court of impose sanctions for, but these requests were completely ignored by the trial court. Specific examples of this deliberate misrepresentation were changing the style of the case to make the petitioner personally liable when in fact two separate legal entities were involved and no legal determination was ever made as to which of these parties should be liable for which claim; arguing that the petitioner committed the unauthorized practice of law when there is no unauthorized practice of law statute in Arizona; and deliberately misrepresenting the legal effect, status and date of the release of a lien filed by the petitioner. See Exhibits G, H, and ROL, Appendix 1, attached hereto.

IV. ARGUMENT

Rule 15(c) of the Civil Rules of Appellate Procedure in civil cases states:

"If an appellant does not timely file his memorandum, the court, upon motion, may dismiss his appeal."

This rule does not require the automatic dismissal of the Appellant's Appeal because an appellant memorandum is not filed within thirty days. There are legal criteria the court must adhere to in making this determination and the Respondent Judge did not follow those criteria in case.

The criteria is court must use in determining whether or not an appeal should be dismissed for violation of an appellate rule was clearly set forth in Performance Funding, LLC vs. Barcon Corporation, 197 Ariz. 286 (App. 2000). In this case the Court held that an appeal should not be dismissed for violation of an appellate rule unless two things are present: (1) the violation of the rule affects the jurisdiction of the court hearing the appeal and (2) the Appellee can demonstrate that he was prejudiced because he was not informed of the issues on appeal.

The decision in Performance Funding is consistent with the decision of the Arizona Supreme Court in Hill vs. The City of Phoenix, 193 Ariz. 299 (1999) in which the Supreme Court held (1) That where the appellate court has general subject matter jurisdiction as well as personal jurisdiction over the parties, the court should strive to resolve an appeal on the merits; and (2) An appellant who fails to follow appellate procedure does so at the risk of losing his right to judicial review on the merit, and such sanction should generally result upon a showing of prejudice to an adverse party; absent such prejudice, society's interests in adjudicating appeals on the merits should govern.

The federal court have also held that cases should be decided on the merits where non-layers are representing themselves and should not be dismissed for technical violations of rules of procedure where no prejudice can be shown by the other party. Pro se litigants must be given a meaningful opportunity to be heard. Faretta v. California, 422 U.S. 806 (1975). If the pleadings of a pro se litigant can reasonable be read to state a valid claim, that claim must be heard on the merits despite the absence of legal citation or technical failing. The pleadings of pro se litigants are to be liberally construed. Hall v. Bellmom, 935 F2D 1106 (1991). For a court to do otherwise is to deny a pro se litigant equal protection and due process under the law.

In this case, neither of the two conditions that must be shown under Arizona case law to dismiss the petitioner's appeal were present. The Superior Court clearly had jurisdiction to hear this appeal and the Real Party in Interest was unable to show any prejudice by the petitioner's failure to timely file his Appellate Memorandum within thirty days. Petitioner made a good faith attempt to follow the rules of Appellate Procedure in Civil Appeals.

Rule 16 of the Civil Rules of Appellate Procedure permit the appellate court to extend the period of time for a pro se litigant to file an appellate memorandum and to not conform to the formal procedural requirements of the appellate rules "... to unsure that a fair and just determination of the appeal on its merits can be made." This is all the petitioner is asking for in this case; that his case can be heard on the merits as die process and the case law require.

This case also presents issues of equal protection and due process. A party who is represented by an attorney is not sanctioned for wilfully failing to follow the rules of Civil Procedure for over six

months by failing to file a disclosure statement, yet, a party not represented by a lawyer who made a good faith effort to follow the rules is given the ultimate sanction by being denied the fundamental right to have his case heard on the merits because he was a mere thirty days late in following a confusing rule that he did not willfully fail to follow and that did not prejudice the adverse party.

It is fair to permit lawyers who represent the Real Party in Interest to totally and willfully disregard the rule on disclosure for over six months that prejudiced the petitioner in filing a response to their summary judgement, but then impose the ultimate sanction against the petitioner at the request of those same lawyers because he was thirty days late in filing a memorandum that he did not know he could file and that caused no prejudice to the adverse party? If the law is going to be applied equally to all parties regarding adherence to the rules, then the petitioner's thirty days late filing of his appellate memorandum should not be treated any differently than the adverse parties failure to file a disclosure statement for six months. No sanctions were imposed on the adverse party's violation of the rules of the procedure by over six months, therefore no sanctions should have been imposed on the petitioner for being only thirty days late. The adverse party knew what the rule was and chose to ignore it; the petitioner did not know what the rule was, but tried to figure it out and tried to comply with it.

When the Real Party in Interest failed to file a disclosure statement as required by Rule 26.1, the petitioner was prejudiced by that willful rule violation. The petitioner did not know what the issues were, what the legal theories and defenses were going to be, what evidence the adverse party was going to use or who their witnesses were going to be. When the petitioner received the motion for summary judgement, he found out for the first time many of the things that should have been disclosed six months earlier in the disclosure

statement. In order to have time to properly respond to all these new surprises contained in the motion for summary judgement, the petitioner requested additional time to respond to the motion for summary judgment. He was denied an extension of time to respond despite the law clearly stating that he should have been granted that extension. See Exhibit I, Appendix 1, attached hereto.

V. CONCLUSION

All the petitioner ever wanted in this case was to have his fundamental right to have his case heard on the merits. He was wrongfully denied that right in the justice court when a motion for summary judgment was granted against him despite the fact that he raised genuine issues of fact supported by affidavits on each issue. There was also no evidence of proof submitted to support the award of damages against him. Additionally there was no differentiation made of who the damages should have been assessed even though there were two separate counter-defendants and there was no vicarious liability alleged or proved to link the same damages to both defendants. The petitioner filed a motion for reconsideration pointing out the errors of the justice court in granting the motion for summary judgement, but that motion, like all the other petitioner's motions, was denied by the justice court.

When the petitioner appealed that erroneous decision, he was again wrongfully denied his right to have his case heard on the merits because his appellate memorandum that he initially thought he did not have a right to file was thirty days late. No prejudice was shown by the Appellee because the Appellant was late in filing his memorandum. The law requires that a case be heard on appeal on the merits unless the appellate courts finds that there is both a lack of jurisdiction to hear the appeal and prejudice to the adverse party. Neither of these two requirements is present in this case. Therefore, the petitioner respectfully requests that this Court accept jurisdiction of the special action and reverse the ruling of the Respondent Judge that dismissed the petitioner's appeal so that this matter can finally be heard on the merits.

CERTIFICATE OF COMPLIANCE

Petitioner certifies that the forgoing Petition For Special Action has been prepared in double-speced 14-point Times New Roman font, a proportional roman typeface, and that the Petition contains 2,299 words per the word count function of the Work Perfect program used to prepared this document.

Respectfully submitted this 18th day of December, 2002.

Irwin Gary Roberts
IRWIN GARY ROBERTS
Petitioner

CERTIFICATE OF SERVICE

I hereby certify the original and six copies of the Special Action were hand delivered to the Court of Appeals in Phoenix, Arizona.

I hereby certify that a true copy hereof was hand delivered to Judge Michael D. Jones, Respondent Judge, and the Clerk of the Superior Court, 101 West Jefferson, Phoenix, Arizona 85003, on December 18, 2002.

I hereby certify that a true copy was mailed to David Brnilovich and Rebecca L. Covell Attorneys, Collier Center 11th Floor, 201 East Washington Street, Phoenix, AZ 85004-2385 on December 18, 2002.

Respectfully submitted December 18, 2002.

Irwin Gary Roberts
IRWIN GARY ROBERTS
Petitioner

APPENDIX C

Docket Number_____

In the Supreme Court of the United States

Irwin Gary Roberts,
Petitioner,
v.
Patricia Jeanne Ard,
Respondent

Petition for Review

TABLE OF CONTENTS

APPENDIX C: PETITION FOR REVIEW

Exhibit SC – Supreme Court Minute Entry to Appeal (refer to Appendix 1).....page 3, 18
Exhibit B (refer to Appendix D) – Response and Reply in Support to Defendant's Application for Attorney's Fees.....page 3,4
Exhibit A (refer to Appendix 1) Plaintiff's Counter Defendant's Answer to Defendant's Motion for Summary Judgment.....page 4
Exhibit A1 (refer to Appendix 1)– Affidavit of Irwin Gary Roberts in Opposition to Motion for Summary Judgment.....page 4
Exhibit D (refer to Appendix 1) – Affidavit of Michael Wilenshik.....page 4
Exhibit C (refer to Appendix 1) – Plaintiff's Motion for Reconsideration.....page 4
Exhibit B (refer to Appendix 1) – Affidavit of Patricia Ard (lack any evidence of damages).....page 4
Exhibit B1 (refer to Appendix 1) – Affidavit of George Klidas (lack any evidence of damages).....page 4
Exhibit R & Q (refer to Appendix Q) – Defense Counsel Corrected the Heading Before the Respondent Judge Jones.....page 5
Exhibit A, (refer to Appendix D) - Appellant's Appeal Memorandum to replace the previous Pleading Captioned Erroneously as Response to Reply in Support of Defendant's Application for Attorney's Fees.....page 7

Exhibit E, Motion for Entry of Judgment, to Dismiss Counterclaim and to Prohibit the Use of Witnesses and Evidence by the Defendant.....page 5
Exhibit F, Motion for Entry of Judgment, to Dismiss Counterclaim and to Prohibit the Use of Witnesses and Evidence by the Defendant.....page 5
Exhibit W, X & Z (refer to Appendix Q) – Corrected Heading.....page 5
Exhibit ROL (refer to Appendix 1) – Release of the Certified Lien.....page 6
Exhibit SJH (refer to Appendix Q) – Page 23 line 15-20.....page 6,10
Exhibit O – Timesheet of the Attorney Shows No Certified Receipt from the Post Office (refer to Appendix 1).....page 6
Exhibit B, Appendix D - Response to Reply of Defendant's Application For Attorney's Fees.....page 7
Exhibit J, Appendix 1 - Letter of Offer December 7, 2001.....page 11
Exhibit CA - Minute Entry from Court of Appeals not Accepting Jurisdiction.....page 14
Exhibit APL, Appendix Q, Arizona Doesn't Bar Non-Lawyers from Doing Legal Work.....page 11

Irwin Gary Roberts
5629 S. Sailor's Reef Rd.
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ARIZONA SUPREME COURT
STATE OF ARIZONA

Irwin Gary Roberts, Pro Per,	ICA-SA 02-0331 ICA-SA CV-03-0036-PR MARICOPA COUNTY SUPERIOR COURT NO.
PETITIONER,	CV 2002-017209
vs.	PETITION FOR REVIEW

THE HONORABLE MICHAEL JONES, Judge of the Superior Court of the State of Arizona, in And for the County of Maricopa,

RESPONDENT JUDGE,

PATRICIA ARD,

REAL PARTY IN INTEREST

The petitioner, Irwin Gary Roberts, respectfully requests that this Supreme Court accept jurisdiction of this PETITION FOR REVIEW and reverse the Respondent Judge's ruling dismissing Petitioner's appeal and reverse The Court of Appeals for not accepting jurisdiction. A MINUTE ENTRY from the Court of Appeals in not accepting jurisdiction is attached to this pleading as Exhibit CA. The reasons supporting this request are set forth

in the following memorandum.

DATED this 31st day of January, 2003.

Irwin Gary Roberts
IRWIN GARY ROBERTS
Petitioner
Pro Per

MEMORANDUM OR POINTS AND AUTHORITIES

I. JURISDICTIONAL STATEMENT

The petitioner states 23.8 Appeals from The SUPERIOR COURT REVIEW, JUSTICE COURT CIVIL APPEALS with one exception there are no appeals of right behind SUPERIOR COURT REViEW. HABERKON V. SEARS ROEBUCK and CO. Supra; Scrap-CIV 20 (B). Indeed a case which originates in Justice Court and is subsequently appealed to The Superior Court is not "brought into Superior Court from any other court" so as to permit appeal to the Court of Appeals pursuant to ARS 12-2101B Sanders V. Moore 117 Arz. App 63, 495 P2D 503(1972); Morgan V. Continental Mortgage Investors 6 Arz. App 56, 891 P2D.

Even though no further appeal is availabie it may nonetheless be possible to obtain Special Action Review of The Superior Court determination 12-120, 21 AC4, see Civil Appeals 3.21, 8 Appellants Court Special Actions 7.3.2.

A 1990 amendment AR12-120, 21A 4 permits the Court of Appeals to hear and determine petitions for special actions brought pursuant to the Rules of Procedure For Special Actions, without regard to Appellate Jurisdiction.

State Ex Rel McDougal V. Superior Court (Klemencic) 190 Arz. 474, 826 P2D 337 App 1991, State Ex Rel McDougal V.

Albrecht 168 Arz. 128 811 P2D, 791 State V. Aguilar, 170 Arz. 292, 823, P2D 1300 App 1991, Civil Appeals 3.2.1.1. Appellate Court Special Actions 7.3.2.
Petitioner also attaches Superior Court Minute Entry to Appeal, if this Court does not accept jurisdiction, it is better to be safe than sorry Exhibit SC.

II. ISSUE PRESENTED

Did the respondent Judge and The Court of Appeals abuse their discretion when they dismissed the Petitioner's Special Action because of a technical error see Appendix D, Exhibit B (titled, Response to Reply in Support of Defendant's Application for Attorney's Fees) which clarified to the court all the issues that are needed to be addressed in the Special Action and the legal basis for each action there was no surprise to the Appellate.
Petitioner also relied on Arizona Civil Trial Practice Second Edition authored by Daniel J. Mcaliffe and Shirley J. Wahl Section 33.12. There was no stipulated record and the petitioner believed the Appeal would proceed on the record transmitted from the Justice Court to the Superior Court. The petitioner has filed every pleading from the Small Claims Court to the Supreme Court on time and made every effort to follow The Rules of Appellant Procedure and has acted in good faith.
The petitioner also consulted the Superior Court rules as to how to proceed on his appeal. Rule 13 dealing with Appellate Memorandum states:
"In all appeals based in a **stipulated record** (emphasis added), the parties shall file memorandum to aid the Superior Court in determination of the appeal."
In the petitioner's case, there was no stipulated record and therefore the petitioner thought that he was precluded from filing a memorandum in support of his appeal. The petitioner had previously set forth everything that is required by Rule 13 to be in the

Appellant's Memorandum in his pleading titled "Response to Reply in Support of Defendant's Application for Attorney's Fees", Appendix D, Exhibit B, so that if the petitioner lost in Justice Court, the Superior Court on appeal would be informed of the facts of the case, each issue to be decided on appeal, the legal arguments supporting the Petitioner's position on each issue and a conclusion, The Real Party in Interest knew what the issues on appeal would be and what the petitioner's legal argument for each issue on appeal would be. See Appendix 1 (Plaintiff's/Counter Defendant's Answer to Defendant's Motion For Summary Judgement) Exhibit A1 (Affidavit of Irwin Gary Roberts in Opposition to Motion for Summary Judgment), Exhibit D (Affidavit of Michael Wilenchik), Exhibit D, Appendix 1, Plaintiff's Motion for Reconsideration) and Appendix D, Exhibit B (RESPONSE TO REPLY IN SUPPORT OF DEFENDANT'S APPLICATION FOR ATTORNEY'S FEES).

III. MATERIAL FACTS

The Peoria Justice Court granted a motion for summary judgment against the Petitioner even though the Petitioner filed a timely response to the Real Party in Interest's motion for summary judgment which included affidavits raising genuine issues of fact on each issue for which the Real Party in Interest was granted summary judgment. The Real Party in Interest never submitted any proof of damages for any of the six counts that she was awarded summary judgment on, and yet the Justice Court awarded her $9,999.00 the jurisdictional limit. See Exhibit A and D, Appendix 1 which shows that the Petitioner raised appropriate issues of material facts on every issue for which the Real Party in Interest was granted summery judgment. See Exhibit B Affidavit of Patricia Ard) and Exhibit B1 (affidavit of George Klidas) in Appendix 1. Real Party in Interest affidavits that lack any evidence of damages. See Exhibit C Appendix 1 that show the

Justice Court was informed of the law regarding summary judgements in the Petitioner's motion for reconsideration. The Petitioner timely appealed the Justice Court's ruling granting the motion for summary judgment to the Superior Court. The Real Party in Interest in this matter, who was represented by counsel at trial, never filed a Disclosure Statement as required by Rule 26.1 even though the petitioner filed two motions asking the Justice court to require them to do so over a five month period of time. See Exhibit E and F, Appendix 1. Their excuse for not filing a Disclosure Statement was that they were working on a summary judgement motion for five months which is not a valid reason under Arizona law for not filing the mandatory Disclosure Statement. For over six months the Real Party in Interest's counsel chose to ignore the mandatory filing requirements of Rule 26.1. Yet when the petitioner failed to file his Appellate Memorandum within thirty days, counsel for the Real Party in Interest filed a Motion to Dismiss the appeal, but failed to allege any prejudice to them as a result of the petitioner's failure to do so.

The Real Party in Interest's counsel also committed numerous acts of misrepresentation which the petitioner documented and asked the court to impose sanctions for, but these requests were completely ignored by the trial court. Specific examples of this deliberate misrepresentation were changing the style of the case to make the petitioner personally liable when in fact two separate legal entities were involved and no legal determination was ever made as to which of these parties should be liable for which claim and also caused the case in the Justice Court to be transferred to the Superior Court as the amount exceeded $10,000; Defense Counsel again on January 16th, 2002 changed the heading before Judge Woodburn CIV TJ 202-005374, see Appendix Q Exhibit R and Q. Defense Counsel corrected the heading before the Respondent Judge Jones see Appendix 1, Exhibit W and X. Petitioners heading on Exhibit Z, Appendix Q is the correct

heading. Defense Counsel changed the heading to Irwin Gary Roberts dba Accident Assistance Centers of Arizona Inc. This was done in bad faith and subject to Rule 11 Sanctions, as fraud was perpetrated on the court.
Defense Counsel deliberately misrepresented the legal effects, status and date of release of a lien filed by the petitioner where a Summary Judgement was ruled against this petitioner on this issue. The petitioner filed and removed the lien in nine days where the law stated it had to be removed in twenty. The Justice Court refused to overturn his Summary Judgement Ruling, abused his discretion and acted in an arbitrary and capricious manner. See Appendix 1, Exhibit ROL, RELEASE OF CERTIFIED LIEN, Appendix 1, Exhibit SJH, Judge Anderson transcript, page 23, line 15-20 and Appendix 1, Exhibit O, the time sheet of attorney's showed no certified receipt received.

IV. ARGUMENT

Rule 15C of the Civil Rules of Appellate Procedure in civil cases states: "If an appellant does not timely file his memorandum, the court, upon motion, may dismiss his appeal." This rule does not require the automatic dismissal of the Appellant's Appeal because an Appellant Memorandum is not filed within thirty days. There are legal criteria the courts must adhere to in making this determination and the Respondent Judge and Court of Appeals did not follow those criteria in this case. The criteria a court must use in determining whether or not an appeal should be dismissed for violation of an appellate rule was clearly set forth in Performance Funding, LLV Barcon Corporation, 197 Ariz. 86 (App.2000). In this case the court held that an appeal should not be dismissed for violation of an appellate rule unless two things are present: (1) the violation of a rule affects the jurisdiction of the court hearing the appeal, and (2) the Appellee can demonstrate that he was prejudiced because he was not informed of the issues on appeal. In

this case, Appeal and Error 775, ON APPEAL, COURTS STRIVE TO DISPOSE OF CASES ON THEIR MERITS RATHER THAN ON HARMLESS TECHNICAL ERROR. The decision in Performance Funding is consistent with the decision of the Arizona Supreme Court in Hill v. the City of Phoenix, 193 Ariz. 299 (1999) in which the Supreme Court held (1) that where the appellate court has general subject matter jurisdiction as well as personal jurisdiction over the parties, the court should strive to resolve an appeal on the merits; and (2) an appellant who fails to follow appellate procedure does so at the risk of losing his right to judicial review on the merit, and such sanction should generally result upon showing of prejudice to an adverse party; absent such prejudice, society's interests in adjudicating appeals on the merits should govern.

3. **Appeal and Error 422**, where adequate notice of appeal has been given an opposing party, fairness demands that no mere technical error should prevent the appellate court from reaching the merits of the appeal. 17B A.R.S. Civil Appellate Proc. Rules, Rule 8C.

Arizona Courts recognize the Rules of Civil Procedure and dispose of cases on the merits where there are errors procedure can be characterized as harmless and non-prejudicial to mislead the other party. Hanen 102 Arz. at 9, 423, P2D.

Petitioner states see Appendix D, Exhibit A, where it states APPELLANT'S APPEAL MEMORANDUM TO REPLACE THE PREVIOUS PLEADING CAPTIONED ERRONEOUSLY AS RESPONSE TO REPLY IN SUPPORT OF DEFENDANT'S APPLICATION FOR ATTORNEY'S FEES, IF THIS EXHIBIT A WAS PLACED AS THE COVER SHEET OVER EXHIBIT B IN APPENDIX D RESPONSE TO

REPLY IN SUPPORT OF DEFENDANT'S APPLICATION FOR ATTORNEY'S FEES (assigned to Lex E. Anderson), than the memorandum would be complete, the technical error would be correct as the issues that are needed to be addressed in the Appeal Memorandum. Therefore the Hill V. City of Phoenix, which was ruled on by this Supreme Court State of Arizona is the law and the petitioner's case should reverse the Ruling of the Court of Appeals and the Respondent Judge (JUDICIAL NOTICE) Of (THE HILL CASE) SHOULD BE TAKEN BY THIS SUPREME COURT. The Superior Court and the Court of Appeals clearly had jurisdiction to hear this appeal as the Real Party in Interest was unable to show any prejudice because of the technical error or petitioner's timely failure to file his Appellant Memorandum within thirty days. Petitioner made a good faith attempt to follow the Rules of Appellate Procedure in Civil Appeals. Since the inception of this case this is the first time a technical error has occurred or filing a motion that was not timely. As neither of the two conditions that must be shown under Arizona case law to dismiss the petitioner's appeal were present. The Superior Court and Court of Appeals clearly had jurisdiction to hear this appeal and the Real Party in Interest was unable to show any prejudice by the petitioner's failure to timely file his Appellate Memorandum and to accept the mere technical error and to accept jurisdiction. Petitioner made a good faith attempt to follow the rules of Appellate Procedure in Civil Appeals.

Federal Due Process requires that Pro Se litigants must be given a meaningful opportunity to be heard. Little V. Streater 452 US 1 (1981). Equal protection of the laws may be implicated when different rules apply to Pro Se litigants. Taissan V. People 731 P2D 677. The pleadings of Pro Se are to be construed liberally, Schwartz, cited pursuant to 10th Cir. R. 363 citing Haines V.

Kerner 404 US 579 (1972). If we can reasonably read the pleadings to state a valid claim we will do so despite the absence of citation of legal authority or other technical errors or findings. Hall V. Bellmon 935 F2D 1106 (1991).

Rule 16 of the Civil Rules of Appellate Procedure permit the Appellate Court to extend the period of time for a Pro Se litigant to file an Appellate Memorandum and to not conform to the formal procedural requirements of the Appellate Rules" . . . insure that a fair and just determination of the Appeal on it's merits can be made." This is all the petitioner is asking for in this case; that his case be heard on the merits as due process and the case law require.

This case also presents issues of equal protection and due process. A party who is represented by an attorney is not sanctioned for willfully failing to follow the rules of Civil Procedure for over six months by failing to file a disclosure statement, yet, a party not represented by a lawyer who made a good faith effort to follow the rules is given the ultimate sanction by being denied the fundamental right to have his case heard on the merits because he was a mere thirty days late in following a confusing rule that he did not willfully fail to follow and that did not prejudice the adverse party.

It is fair to permit lawyers who represent the Real Party in Interest to totally and willfully disregard the rule on disclosure for over six months that prejudiced the petitioner in filing a response to their summary judgment, but then imposed the ultimate sanction against the petitioner at the request of those same lawyers because he was thirty days late in filing a memorandum that he did not know he could file, and which also had a mere technical error caused no prejudice to the adverse party. If the law is going to be applied equally to all parties regarding adherence to rules, than the

petitioner's thirty days late filing of his Appellate Memorandum or having a mere technical error should not be treated any differently than the adverse party's failure to file a disclosure statement for six months. No sanctions were imposed on the adverse party's violation of the Rules Of Procedure by over six months, therefore no sanctions should have been imposed on the petitioner for being only thirty days late. The adverse party knew what the rule was and chose to ignore it, the petitioner did not know that the rule was, but tried to figure it out and tried to comply with it. When the Real Party in Interest failed to file a disclosure statement as required by Rule 26.1., the petitioner was prejudiced by that willful rule violation. The petitioner did not know what the issues were, what the legal theories and defenses were going to be. When the petitioner received the motion for summary judgement, he found out for the first time many of the things that should have been disclosed six months earlier in the disclosure statement. In order to have time to properly respond to all these new surprises contained in the disclosure statement, the petitioner requested additional time to respond to the motion for summary judgement. He was denied an extension of time to respond despite the law clearly stating that he should have been granted that extension. See Exhibit 1, Appendix 1, attached hereto (PLAINTIFF'S RESPONSE TO DEFENDANT MOTION FOR ORAL ARGUMENTS FOR SUMMARY JUDGMENT ON JUNE 20, 2002 SHOULD BE DENIED AND CONTINUED AT A LATER DATE).

V. CONCLUSION

Petitioner submits part of the transcript from the Summary Judgment hearing before Judge Anderson. See Appendix Q, Exhibit SJH, see page 1 line 508, page 5 line 9-25, page 6 line 1-13, page 7 line 4-8, 12-14, page 15 line 15-23, page 16 line 1-14, page 7 line 15-23, page 8 line 4-12, page 15 line 8-11, page 16 line 5-10, page 23 line 15-20. The above references refer to

change of heading, disclosure, offer of settlement and release of lien which proves misconduct by attorneys and abuse of discretion by the Justice Court. There is a code of conduct for attorneys and for the Judiciary, Due Process requires that every litigant have a fair hearing before an impartial Tribunal. The Courts in this state from the Small Claims to the Court of Appeals have abused their discretion, acted in an arbitrary and capricious manner and violated the Due Process and Equal Protection of the law of the petitioner because every motion, response and reply has been denied to him and they were not frivolous. The attorneys for the Defense have deliberately violated the Rules of the Court because of their misconduct, fraud, Due Process, and Equal Protection of the petitioner has been violated. The petitioner has documentary evidence that the Bar Association is the driving force behind the The Respondent Ard and her family, who on information and belief are committing welfare and insurance fraud. What ethical lawyer would spend $26,000 on a $2,006 case which was in The Small Claims Court? See Appendix 1, Exhibit J, letter of offer December 7th, 2001. Defense Attorneys would not give the Respondent Ard the offer. The petitioner states since the law is on his side, he had been shafted because he is a Public Adjuster for eleven years and has been legally exercising his right granted to him by ARS 20-281 by the Legislator in the State of Arizona. The petitioner has documentary evidence that the Bar Association is the driving force behind this plot to make him the scapegoat by stating that a Public Adjuster or individual can't be in the unauthorized practice of law in Arizona as the legislature repealed the statute in 1984. See Exhibit APL, Appendix 1, Van O'Steen. All the petitioner ever wanted in this case was to be heard on the merits. He was wrongfully denied that right in the Justice Court when a motion for summary judgement was granted against him despite the fact that he raised genuine issues of fact supported by affidavits on each issue. There was no evidence of proof submitted to support the award of damages against him. There was no

differentiation made of who the damages should have been assessed even though there were two separate counter defendants and there was no vicarious liability alleged or proved to link the same damages to both defendants. The petitioner filed a motion for reconsideration pointing out the errors of the Justice Court in granting the motion for summary judgement, but that motion, like all the other petitioner's motions, was denied by the Justice Court. When the petitioner appealed that erroneous decision, he was again wrongfully denied his right to have his case heard on the merits because his Appellate Memorandum that he initially thought he did not have a right to file was thirty days late and there was a mere technical error. No prejudice was shown by the Appellee because the Appellant was late in filing his memorandum. The law requires that a case be heard on appeal on the merits unless the Appellate Courts finds that there is both a lack of jurisdiction to hear the case and prejudice to the adverse party. Neither of these two requirements is present in this case. Therefore, the Petitioner respectfully request that this Court accept jurisdiction of this Petition for Review and reverse the ruling of the Respondent Judge and the Court of Appeals that dismissed the petitioner's appeal so that this matter can finally be heard on the merits.

EXHIBIT CA - MINUTE ENTRY

COURT OF APPEALS

DECLINES JURISDICTION!

EXHIBIT CA

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IRWIN GARY ROBERTS,	1 CA-SA 02-0331
	)Department B
Petitioner,	)
	)Maricopa Cty
v.	)Superior Court
	)No. CV 02-
THE HONORABLE MICHAEL JONES,	)017209
Judge of the SUPERIOR COURT OF	)
THE STATE OF ARIZONA, in and	)ORDER
for the County of Maricopa,	)
	)
Respondent Judge,	)
	)
PATRICIA ARD,	)
	)
Real Party in Interest.	)
	)

The court has considered the Petition for Special Action filed by petitioner Roberts.

In the exercise of its descretion, IT IS ORDERED the court declines to accept jurisdiction of the Petition.

DATED this 2nd day of January, 2003.

James B. Sult, Presiding Judge

1 CA-SA 02-0331

January 2, 2003

MARICOPA COUNTY
Superior Court
CV 02-017209

A true copy of the foregoing
order was mailed
January 2, 2003 to:

Mr. Irwin Gary Roberts
Propria Persona
5629 South Sailor's Reef Road
Tempe, AZ 85283
Petitioner

Mr. David Brnilovich
Jennings, Strouss & Salmon, P.L.C.
The Collier Center, 11th Fl
201 East Washington Street
Phoenix, AZ 85004-2385
and

Ms. Rebecca L. Covell
Jennings, Strouss & Salmon, P.L.C.
The Collier Center, 11th Fl
201 East Washington Street
Phoenix, AZ 85004-2385
Attorneys for Real Party in Interest

Honorable Michael D. Jones, Judge
MARICOPA COUNTY SUPERIOR COURT
Central Court Building
201 West Jefferson Street
Phoenix, AZ 85003-2205
Respondent Judge

Glen D Clark, Clerk
By

_____
Deputy Clerk

EXHIBIT SC
MINUTE ENTRY
NOTICE OF APPEAL TO
THE COURT OF APPEALS

EXHIBIT SC
SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-017209 01-01-2003

HONORABLE MICHAEL D. JONES

FILED: 01/07/2003

IRWIN GARY ROBERTS

IRWIN GARY ROBERTS
5629 S. SAILOR REEF RD.
TEMPE AZ 85283

v.

PATRICIA ARD

DAVID BRNILOVICH

PEORIA JUSTICE COURT

MINUTE ENTRY

This Court has received and reviewed Appellant's Motion to Dismiss Notice of Appeal.

IT IS ORDERED granting Appellant's Notice of Appeal to the Court of Appeals.

APPENDIX EXHIBIT D AND APPENDIX 1 IS HAND DELIVERED TO THE CLERK OF THE COURT OF APPEALS, JUDGE MICHAEL JONES. OF THE SUPERIOR COURT AND TO REBECCA COVELL AND DAVID BRNILOVICH, ATTORNEYS.

Respectfully Submitted
this day of January 31, 2003

_____
Irwin Gary Roberts
Dated January 31, 2003

Petition For Review was delivered to the Court of Appeals for The Supreme Court State of Arizona at 1501 West Washington, Phoenix, Arizona on January 31, 2003

Petition for Review was hand delivered
to the Respondent Judge Michael Jones Superior Court
201 West Jefferson Phoenix, AZ 85007
on January 31, 2003

Petition for Review was
Hand Delivered to
Rebecca Covell and Brnilovich at
Jennings, Strouss and Salmon
201 West Washington
Phoenix, AZ on January 31, 2003

Irwin Gary Roberts
Dated January 31, 2003

Supreme Court, U.S.
FILED
03 930 AUG 12 2003

APPENDIX D

Docket Number_____

In the Supreme Court of the United States

Irwin Gary Roberts,
Petitioner,
v.
Patricia Jeanne Ard,
Respondent

TABLE OF CONTENTS - APPENDIX D

Exhibit D – Appellant's Motion for Reconsideration of other Court's Decision to Dismiss the Appellant's Appeal for Failure to Timely File Their Memorandum.....page 83,88
Exhibit A – Appellant's Appeal Memorandum to Replace the Previous Pleading Captioned Erroneously as Response to Reply in Support of Defendant's Application for Attorney's Fees.....page 84,92
Exhibit B Response to Reply in Support ofDefendant's Application for Attorney's Fees.....page 84, 94
Exhibit DS – Defendant's 1st Count for Summary Judgment.....page 99
Exhibit DS1–Slander–Summary Judgment .....page 101
Exhibit DS2 – The 3rd Count for Summary Judgment.....page 103
Exhibit DS3 – Summary Judgment on the Unauthorized Practice of Law .....page 105
Exhibit DS4 – Summary Judgment on Consumer Fraud.....page 107
Exhibit C – Affadavit of Michael Wilenchik....page 111
Exhibit A1 - Affidavit in Opposition to Motion For Summary Judgment.....page 109
Exhibit E - AZ Doesn't Bar Non-Lawyers.....page 117
Exhibit 4 – Plaintiff's Letter to Patricia Ard Confirming he Investigated her Claim.....page 123
Exhibit CG – Accident Assistance Centers of Arizona, Inc. Contract that Patricia Ard Signed.....page 134
Exhibit 14 – ARS 33 – 420 – Property.....page 132
Exhibit 13 - Letter from Patricia Ard.....page 131
Exhibit 12 - Fax 01/22/2001.....page 130
Exhibit 11 - Fax 01/26/2001.....page 129
Exhibit 9 - Plaintiffs Response to Defendant's Motion for Oral Arguments for Summary Judgment on 06/20/ 2002 Should be Denied and Continued at a Later Date.....page 127
Exhibit 7-Fran Johnsen Letter.....page 126
Exhibit 6 - Complaint Questionairre.....page 125

EXHIBIT D

Irwin Gary Roberts
5629 S Sailors Reef Rd
Tempe, AZ 85283
(480)491-4020 Pro Per

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, a single Individual, ACCIDENT ASSISTANCE CENTER OF AZ, INC, an Arizona Corporation,	CASE NO CV2002-017209
Plaintiffs/Counterdefendants/ Appellants, Vs	Appellant's Motion for Reconsideration of Of the Courts Decision to Dismiss the Appellants Appeal for Failure to Timely File Their Memorandum
PATRICIA ARD, Defendant/Counterclaimant/ Appellee	

Appellants, Irwin Gary Roberts and Accident Assistant Center of AZ, Inc, hereby move that this Court reconsider its decision to dismiss the Appellants' appeal for failure to timely file their memorandum and in support of this motion, the Appellants allege as follows:

The case law in Arizona is clear that an appeal should not be dismissed for violation of an Appellate rule if (1) the violation does not affect the jurisdiction of the court hearing the appeal, and (2) the Appellee can not demonstrate any prejudice because the Appellee is fully aware that the Appellant planned to appeal and was informed of the issues on appeal *Performance Funding, LLCvs Barcon Corporation 197 Ariz286 (App 2000)* In this case, all of these conditions have

been met so that the Appellants' appeal should not be dismissed and should proceed on the merits.

In this case, the Appellants did not intentionally violate or ignore the rules to appeal the decision of the justice court Their understanding of the rule regarding memorandums was that they could not file a memorandum unless there was a stipulated record on appeal, which there was not They relied on Arizona Practice, Civil Trial Practice, Second Edition authored by Daniel J, McAliffe and Shirley J Wahl In Section 33 12 Appeal on a Stipulated Record, this text states that " 1 the appellant files a memorandum within 30 days of the date the notice of appeal is filed " In this case, there was no stipulated record, so the Appellant believed that the appeal would proceed only by a review of the record transmitted by the Justice Court to the Superior Court The Appellants did nothing to divest this court of its jurisdiction to hear this appeal and timely filed everything required except for thee memorandum, so the first requirement has clearly been met.

The second requirement to avoid dismissal of their appeal has also been met In order for the Appellant to inform the Superior Court and the Appellee of what their issues on appeal were and the law supporting the Appellants' appeal, the Appellants in their Reply to the Defendant's Response for Attorney's fees set forth a Statement of Facts and listed all the issues that needed to be addressed in the appeal and the legal basis for each issue A copy of that pleading, which was in fact the Appellants' Memorandum on Appeal, is attached to this motion as Exhibit B. Exhibit B is in response to reply in support of Defendant's Appelation for Attorney's Fees, is a technical error and clarifies to the court that all the issues are needed to be addressed in the appeal and the legal basis for each issue on the appeal was There was no surprise that could prejudice the Appellee any way

The appellants attaches Exhibit C. This contains an affidavit from a notary Micheal Wilenchik that states that the appellants told him that he is a public adjuster and not an attorney when witnessing the appellee's signature The appellant attaches Exhibit A which is attached to Exhibit B

which is named, Appellants Appeal Memorandum to Replace previous pleading erroneously captioned as response to reply in support of Defendants Application for Attorney's fees Which shows that if the front page of Exhibit A was substituted that there was a technical error and the memorandum corrects the technical error of Exhibit B, and that all the issues that are needed to be addressed in the appeal and the legal basis for each issue on appeal, including petitioner response to all 5 counts of Respondents Motion for Summary Judgment.

The only thing the Appellee could come up with as to how she was prejudiced was that her judgment might somehow be placed in jeopardy if the appeal was not dismissed No reason was given for her judgment might somehow be prejudiced, because there was no way her judgment could have been prejudiced The Appellants never filed a supersedeas bond, so there was nothing to prohibit the Appellee from executing on her judgment during the time this appeal is being heard The only way the Appellee could be prejudiced was if this court overturned the decision of the Justice Court, which the Appellee knew would happen if this case was reviewed on appeal.

Appeals courts are required to hear cases on the merits and not dismiss appeals for technical violations of Appellate Rules of Civil Procedure where no prejudice can be shown by the party requesting the dismissal for a violation of any rule *Hill vs City of Phoenix 193* Ariz 299(1999) Such is the case in this matter before this court There is no prejudice that can be shown by the Appellee, this appeal must move forward for review.

It is a fundamental principal of the law in this country' that a case should be decided on the merits whenever possible and not be dismissed because of technical violations of rules where no prejudice to the other party can be shown Parties who are not lawyers are entitled to the same consideration under the rules and laws as are lawyers If lawyers miss filing deadlines on briefs and have a reasonable explanation, including oversight, for doing so, the courts rarely if ever

dismiss their cases for a late filing Non-lawyers should be treated the same or the courts are denying them their right of equal protection and due process under the law

In this case, the Appellants have consistently been denied the equal protection and due process of law The Appellee never did file a disclosure statement in the Justice Court to advise the Appellants of who their witnesses were going to be, what evidence they had and what their legal theories were despite the Appellants twice requesting the Justice Court to make them comply with the rules of the civil procedure, When the Appellee filed her motion for summary judgment some six months after her disclosure statement was due, and the appellants asked for an additional week to respond because they had not had the information in advance that they would have had had the Appellee complied with the disclosure rules, the Appellants was denied a week's extension The purpose of disclosure is to avoid ambush and give all the parties a chance to know what the other side's legal position and evidence will be The Appellants were never given that opportunity because the Appellee never complied with the Disclosure rules even after it was brought to the courts attention twice

The Appellee deliberately failed to comply with the disclosure rules for over six months, the Appellants are seriously prejudiced in presenting their defense to the summary judgment because of lack of disclosure and nothing happens because the Appellee is represented by a major law fine, when the Appellants in good faith tried to comply with the rules and are only a few weeks late in doing something, the court denies them their opportunity to have their case heard in the merits This is not justice as it should be in this country The Appellants are not being treated equally under the law and their due process is violated Surely this court is not so blind as to see that the Appellants are not being given an equal opportunity to have their case heard.

The Appellants have already suffered numerous miscarriages

of justice in this case There were two separate legal claims, one in small claims court and the other in the regular Justice Court The Appellee's attorneys deliberately changed the style of the case to make it; appear as thou there was only one plaintiff, so that Irwin Gary Roberts would be personally liable for the acts of Accident Assistance Centers of AZ, Inc When this was continually brought to the court's attention and the attention of the Appellee's attorneys, nothing was done about it A summary judgment was granted by the Justice Court on every issue raised by the Appellee's attorneys despite the fact that there were legitimate issues of fact raised on every issue by the Appellants that should have prohibited the granting of the summary judgment.

The Appellants answered all the Appellee's motions, responses, and replies, in a timely manner and all were denied by the Justice Court There was a miscarriage of justice in this case by Judge Anderson as he abused his discretion and acted in arbitrary and capricious way and violated the Appellants due process and equal protection under the law.

Judge Anderson of the Justice Court in Peoria, Az had to uphold the law as Appellants told Judge Anderson in his pleadings but failed to due so and abused his discretion and acted in an arbitrary and capricious manner.

Prejudicial error is one that affects the substantial rights of the Appellants so as to result in a miscarriage of justice as the record will reflect on the Justice Court's rulings . Guitierz vs Guitierz 20 Arizona APP 388,513 P2D 677(1973)

Prejudicial error justifies a reversal on appeal for the Appellants Seely vs Mc Evers 115 AZ 171, 564 P2D 394 APP 1977

The Appellants submit Exhibit D, The SUPREME COURT OF ARIZONA

In The Matter Of Establishment Of The Judicial Oversight Council Of The Limited Jurisdictional Courts Of Maricopa County.

The Supreme Court states during a thirty month, at least eight of the forty-six limited Jurisdiction Courts of Maricopa County have faced serious problems removing three Judges for misconduct Three courts have been placed under the administrative control of the Superior Court presiding Judge, two clerks have been charged with theft of funds or sentenced In all during a thirty month period at least eight of the forty- six limited Jurisdiction Courts in Maricopa County have faced serious problems in the areas Indicated The media, TV and print, have confirmed the above.

Judge Anderson never attended law school and has been reported to the Commission On Judicial Conduct several times, on information and belief

The Appellants respectfully request this court to review the entire record and grant the Appellants Appeal

The Appellants submits Exhibit E, THE HEADING IS ARIZONA DOESN'T BAR NON-LAWERS FOR DOING LEGAL WORK, written by the law firm of VAN OSTEEN published in the Arizona Republic—-

The Appellants as President of the Corporation is authorized to represent the corporation under the rules of procedure in small claims court Irwin Gary Roberts individually filed his case against the Appellee in the regular Justice Court for defamation of character against the Appellee for under $10,000 Accident Assistant Centers Of Arizona, Inc filed
it's case against the Appellee for about $2,006 00 as this was movies due for an investigation that he did for the Appellee

There were two separate cases, two separate. Plaintiffs and one common defendant

The Appellee's attorneys, without any justification for doing so, deliberately changed, the style if the case to Irwin Gary Roberts DBA Accident Assistance Center of AZ Inc The Appellants repeatedly brought this issue before the Justice Court and to the attention of the Appellee's attorneys No one did anything about it, which resulted in the two cases being consolidated and the Appellants two cases thus Jurisdictional amount of monies -went over the amount of $10,000 and was transferred to the Superior Court The Appellants individual case for defamation against was dropped by the Appellants therefore the only monies were $2,006 in the corporation case The Appellee's misconduct caused all this confusion, it was brought to the attention of the Justice Court by the Appellants many times to no avail.

Now, when Irwin Gary Roberts has raised this as one of the issues on appeal, the Appellee's attorneys say he should not be allowed to represent the corporation This case has gone on for almost a year The Appellee's attorneys never raised this issue before They are the ones that placed Mr. Roberts in this position by their own deliberate misconduct They should be stopped from raising this issue now This case is in its final stage of determinations This court should decide the appeal solely on the merits of the facts in the case and what is contained in the court file sent up for review The issues and the law are clear

Appellants can only surmise that they are being denied their right to have their case heard on the merits because they are not lawyers. Lawyers can deliberately flaunt the rules without any sanctions or penalties When a non-lawyer makes an honest mistake, the court thrusts a dagger through their heart and refuses to hear their case on the merits. The Appellants know that the State Bar of Arizona is the force behind the Appellee's lawyers in pursuing this case far beyond its worth

What distresses the Appellants is that the Court is supposed to be impartial and treat all litigants equally by the court. They

know that the State Bar of Arizona is the force behind the Appellee's lawyers in pursuing this case far beyond its worth. What distresses the Appellants, is that the Court is supposed to be impartial and treat all litigants equally by the court. They have been held to a stricter standard then are lawyers and punished for not meeting that standard even when it is contrary to the law of this state.

The Appellants respectfully request this court to reconsider the minute entry of dismissal as the appeals courts are required to hear cases on the merits and not dismiss appeals for technical errors which violates the Appellants rules of civil procedure where no prejudice can be shown by the party requesting the dismissal for a violation of the rule The Appellee could have levied on the Appellants after the Justice Court signed the judgment as the Appellants only have a Cost Bond The Appellee has not shown any prejudice and the only way their judgment could be in jeopardy if the court ruled against them on appeal.

The Plaintiff cites Hill vs. the City of Phoenix 193 AZ 299(1999) Such is the case in this matter before the court There is no prejudice that can be shown by the Appellee and this appeal must move forward for review This court has in it's possession two volumes. of pleadings, two transcripts, one from Judge Albrecht and one from the Justice Court and a tape from the Justice Court.

It is this courts duty to see whether or not the Justice Court properly or improperly decided this case, than this appeal should go forward in the merits of the case All the information needed by this court to decide this appeal is already in the court files as expressed-in this motion.

This court can correct the grave injustices perpetrated upon the Appellants, review this case and decide according to the law. That is the just and correct thing to do. To do otherwise is to make a mockery of the principal of equal protection for all litigants in our judicial system The judicial system should treat all litigants equally regardless of whether on not they are represented by attorneys That has not happened in this case The Appellants due process has also been violated under the laws of this state

WHEREFORE, the Appellants request that their Motion for Reconsideration be granted and this case be decided on the merits and not a motion to dismiss for a violation of the rule that under the case law of this state in not a proper ground for dismissal

Respectfully submitted this 12th day of November, 2002

Irwin Gary Roberts

Irwin Gary Roberts

Copy of the foregoing hand delivered on the 12th day of November 2002 to the Honorable Michael D Jones
Maricopa County Superior Court
Center Court Building, 101 west Jefferson, Phoenix, AZ 85003
Copy of the foregoing mailed November 12, 2002
Daved Brnilovich
Rebecca L Covell
The Collier Center 11th Floor, 201 East Washington Street,
Phoenix, AZ 85004-2385

EXHIBIT A

Irwin Gary Roberts
5629 S Sailors Reef Rd
Tempe, AZ 85283
(480)491-4020 Pro Per

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA
IRWIN GARY ROBERTS, a single Individual, ACCIDENT ASSISTANCE CENTER OF AZ, INC, an Arizona Corporation,

Plaintiffs/Counterdefendants/ Appellants,
Vs

PATRICIA ARD,

Defendant/Counterclaimant/ Appellee

CASE NO CV2002-017209

APPELLANT'S APPEAL MEMORANDUM TO REPLACE THE PREVIOUS PLEADING CAPTIONED ERRONIOULSY AS RESPONSE TO REPLY IN SUPPORT OF DEFENDANT'S APPLICATION FOR ATTORNEYS FEES

Appellant states courts are required to hear cases on the merits and not dismiss appeals For technical violations of the Appellate rules of Civil procedure where no prejudice can be shown by the party requesting the dismissal for a violation of any rule Hill vs. City of Phoenix 193 AZ 299(1999) Such is the case in this matter before the court There is no prejudice that can be shown by the Appellee as she could have levied on the Appellants property as Appellants have a Cost Bond Therefore the Appeal must go forward, The issues that are needed to be addressed in the Appeal and the legal bases for

each issue are in this memorandum.
Respectfully submitted

Copy mailed to Defendant's attorney
Rebecca L Covell
Jennings, Strouss & Salmon, P L C
The Collier Center, 11th Floor
201 E.. Washington St
Phoenix, AZ 85004

Date August 9, 2002

_____
Irwin Gary Roberts'

_____
Original hand delivered to the Court

Irwin Gary Roberts

EXHIBIT B

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234

Case No CV01-02761RA

Plaintiff Accident Assistance Center of AZ, Inc. an Arizona Corp
IRWIN GARY ROBERTS,
Counter Defendant
5629 S. Sailors Reef Rd.
Tempe AZ 85283

480-491-4020

Defendant
Patricia Ard

511768 W Larkspur Dr
El Mirage AZ 85335

RESPONSE TO REPLY IN SUPPORT OF DEFENDANT'S APPLICATION FOR ATTORNEY'S FEES
(Assigned to Lex E Anderson)

STATEMENT OF THE FACTS

Plaintiff states approximately 11 years ago Plaintiff and Plaintiffs corporation were licensed by the Arizona Department of Insurance to settle personal injury claims, automobile claims, and to investigate automobile accidents

It was Plaintiffs understanding as well as other public adjusters in the state of Arizona there were no distinctions between 3rd party and 1st party claims The Plaintiff at one point in time advertised on buses, billboards, newspapers, Turf Paradise, radio and a website This Court could take judicial notice of this fact because it is in evidence in Judge Albrecht's Court Exhibit 1 transcript of hearing, April 25, 2002

The minute entry of Judge Albrecht's Rule is in evidence, Transcript Justice Court 6/20/02, Appendix Q, Exhibit SJH.

In addition, during the course of the years the Plaintiff filed several complaints with the state Depart-ment of Insurance for insurance companies acting in bad faith as well as insurance agents

The Plaintiff's licenses are 28761 and 28762, are in good standing and have been renewed recently for another 2 years

This action was commenced when Accident Assistance Center of Arizona, Inc filed a small claims action against Patricia Ard. Patricia Ard had settled a previous accident claim on her own behalf, but she had been unable to find the party who ran into her in a subsequent accident to see if he had insurance so she could collect from her own insurance company on her uninsured motorist coverage Her father told her about the Plaintiff The first time the Defendant met with the Plaintiff; she refused the Plaintiff's services because she did not want to pay $125 00 per hour for the investigation required to be done by the Plaintiff to initiate the first party claim She finally retained Accident Assistance Center of Arizona, Inc to do an investigation to find the party who hit her in this newest accident so she could proceed with her first party claim against her own insurance company She signed a contract with Accident Assistance Center, Inc agreeing to pay $125 00 an hour for investigation time because she was unable to get this information after weeks of trying herself Thereafter, the plaintiff set out to get the information so the first party claim could be processed.

Accident Assistance Center of Arizona, Inc spent approximately sixteen hours investigating and was finally able to locate the party who had injured the defendant in this most recent accident. Accident Assistance Center of Arizona, Inc filed notices with the defendant's own insurance carrier putting them on notice as to first party claim Subsequently, the plaintiff also found out that there was third party coverage and that defendant did not have any uninsured motorist coverage When the plaintiff told the defendant how much

time and money had been expended in finding this party and subsequently discovering that there was third party coverage, Patricia Ard said she would not pay that amount she agreed to pay the plaintiff to investi-gate the first party claim She further told that plaintiff that if the plaintiff did not agree to waive this investiga-tion fee she would fire the plaintiff and cause the plaintiff a lot of trouble by telling everyone that he said he was a lawyer.

The plaintiff refused to waive this fee because the plaintiff has done this work on the first party claim at the defendant's request and pursuant to the contract signed by the defendant The plaintiff was lawfully permit-ted to do this investigation and receive a fee for doing so under AR S 32-2401 and 20-321 Even Judge Albrecht in her minute entry stated the plaintiff was authorized to do first party claims As a result of the plaintiff's refusal to waive its investigation fee, the defendant fired the plaintiff and wrote letters to everyone she could wrongfully accusing him of lying to her and deliberately trying to damage his personal and business reputation Thereafter, the plaintiff, Irwin Gary Roberts, not Accident Assistance Center of Arizona, Inc , sued Patricia Aid individually for defamation in the civil division of the Justice Court because the defendant deliberately lied about what he had said in an effort to forgo a fee that Accident Assistance Center of Arizona, Inc was legally entitled to receive and that the defendant had contractually agreed to pay These were two separate cases with two separate plaintiffs in two separate divisions of the Justice Court with one common defendant.

The defendant then moved to consolidate the two cases because although there were two separate plaintiffs, there was one common defendant and some common facts in both cases In an effort to speed this matter . along, both Accident Assistance Center of Arizona, Inc and Irwin Gary Roberts, the two separate plaintiffs agreed to the consolidation It was at this time that the defendant's

counsel deliberately changed the style of case without any valid or legal reason for doing so which mislead the court into believing that there was only one plaintiff and because the value of the two separate claims combined exceed $10,000, the Court no longer had jurisdiction of the case The defendant's counsel did this by changing the style of the case to read "Irwin Gary Roberts dba Accident Assistance Center of Arizona, Inc. " This deliberate act by counsel for the defendant caused this case to be wrongfully transferred to Superior Court thus delaying the resolution of this case At the summary judgment hearing, the defendant's counsel could not only give no valid legal basis for changing the Plaintiffs style of the case, she could not give any other valid reason for doing this either This misstatement of the correct Plaintiffs was repeatedly brought to the attention of the defendant's counsel, but they continued to perpetrate this fraud on the court and on the plaintiff. There can be no other reason-able conclusion drawn but that this was done in bad faith and therefore subject to the sanctions of Rule 11

The Rule 11 was denied by the court and the court has denied every motion the Plaintiff has brought and granted every motion the Defendant has brought The Defendant did not answer the Rule 11 motion Plaintiff submits Exhibit 3 which was subpoenaed from the Arizona State Department of Insurance Which is called complaint file, Exhibit 3

The complaint also shows a letter, Exhibit 4, from Roberts to Ard which clearly shows that Roberts was investigating the claim 2/5/01

On 8/3/01 Julie Woods states no direct evidence to establish that Roberts negotiated settlement of claim.

11/8/01 File reviewed by AV S, Exhibit 5 The director regulatory bulletin which spawned all the complaints from the Arizona Bar and various insurers does not say a licensed

agent can or not adjust 3rd party claims It only spells out what an adjuster is and explains that the statute does not address 3rd party claims.

5/13 Robert's client filed a complaint with the state Bar alleging that Roberts represented himself as an attorney There is no allegation that he represented the authority of his adjusters license which permits him to handle 3rd party claims. Case Closed

The Plaintiff herein states he has been settling a personal injury case for 10 years and was legally doing so See Exhibit 5

In open court during the summary judgment hearing on the issue of Plaintiffs contract defense counsel said in open court that the Defendant Ard said to both agencies, the Bar and State Department of Insurance that Plaintiff settled 3rd party claims which is not true as the Defendant reported the Plaintiff for being an attorney to both agencies, the Bar, Exhibit 6 Plaintiff stated you will find defense counsel statement an transcript of summary judgment hearing of June 20, 2002, Exhibit A, Appendix Q & SJH. Mr. Alonzo closed the case because the Plaintiff Ard did not complain about his insurance license but had written a letter stating Plaintiff told her he was an attorney, Exhibit 8

EXHIBIT DS

Defendant's first count for summary judgment alleges' consumer fraud based upon the fact that the Plaintiff allegedly told the defendant and her father (George Klidas) that he was a licensed Arizona attorney The Plaintiff and Irwin Gary Roberts deny that Patricia Ard or her father were ever told that Irwin Gary Roberts was a licensed Arizona attorney The affidavit of Irwin Gary Roberts is attached hereto as Exhibit A1. Attached is Affidavit of Michael Wilenchik Exhibit C

Prior to doing any work for the defendant Ard, Ard and the Plaintiff met with notary public Michael Wilenchik and the Plaintiff clearly stated to the defendant Ard in front of the notary that was present that the Plaintiff was a public adjuster who is licensed, that the Plaintiff settled personal injury claims and was not licensed to practice law in the State of Arizona (Exhibit C)

(Exhibit A) The Plaintiff at no time ever told Patricia Ard, the Defendant or her father George Klidas that Plaintiff was licensed to practice law in the State of Arizona, nor did Plaintiff tell them Plaintiff took cases to court and won them all Plaintiff told them Plaintiff was a licensed adjuster that settled personal injury claims and Plaintiff charges less than most attorneys

Plaintiff states on the contract of Accident Assistance Centers, adjuster's licenses 287761-287762 the contract was signed 1/24/ 2001 (Exhibit CG)

This Court made a judicial error for summary judgment on consumer fraud and found based on the fact that the Plaintiff never told the Defendant or her father Mr Klidas that he was a licensed attorney in the State of Arizona and that Michael Wilenchik's affidavit stated that he is a li-censed public adjuster, that Plaintiff settles personal injury claims and that

Plaintiff was not licensed to practice law in the State of Arizona

The Plaintiff states he was advised by his attorney that you can put your degrees of higher learning on your business card and as Plaintiff complete his legal education by going to Brooklyn Law School which is an accredited ABA school and clerked for a major law firm for 21/2 years Plaintiff could be corporate counsel for his firm and business card read professional services, not attorney at law Note Plaintiff's contract exhibit that Defendant signed shows Plaintiff's license clearly 28761 & 28762 The contract was signed 1/24/02, thus Defendant had to see the contract as she signed and as it was explained to her Thus Defendant had to see Plaintiffs insurance license

A summary judgment can only be granted by the Court where there is no issue of fact to be, determined at trial

Therefore, the Court has no right to assess attorney fees or grant monies to the Defendant Ard for consumer fraud The affidavit of the Plaintiff and Mr Wilenchik state the Plaintiff said he is not an attorney.

EXHIBIT DS1 SLANDER

The Plaintiff filed a motion for a continuance When Plaintiff cited 19 Arizona App 574 James Wesley Young vs Douglas L Peacock case, Exhibit 9

The Appeals Court held trial court abused its discretion in not granting the requested continuance on Plaintiff's Motion for Summary Judgment where the hearing was premature. The Motion was denied by the Justice Court. The Justice Court has denied every one of Plaintiff's Motions and granted all the Defendant's Motions. The Defendant did answer the Plaintiff's Motion.

Plaintiff disclosed several witnesses and was planning to dispose the Defendant Ard, her husband Jerry Ard and her father George Klidas.

The Plaintiff states on information and belief that this family is committing welfare fraud, insurance fraud and Plaintiff has heard the husband works for cash The Defendant Ard has been in 3 auto accidents in two years and the father made windfalls of money in California in auto accidents, and was terminated from Arizona casino for being dishonest.

The Defendant Ard is talking about going bankrupt and she asked her attorney to get a lawyer for her father and sister who were terminated from their jobs The Defendant Ard needs an attorney for the bankruptcy.

According to defense counsel time sheet Defense counsel worked on their summary judgment for 5 months and it was unfair and unjust not to grant the Plaintiff a three week continuance.

The bottom line is if the Plaintiff could prove Welfare fraud,

insurance fraud, or any other scheme these people may be involved in, it would have meant they are not coming into court with clean hands, and if Plaintiff brought a motion for summary judgment Plaintiff would have won hands down.

Defendant replied to Plaintiffs response for summary judgment June 19, 2002 to Plaintiff's home The hearing for summary judgment was June 20, 2002 The Plaintiff is no Houdini and he was ambushed Plaintiffs disclosure was timely and was not given the opportunity to take witnesses depositions.

The Plaintiff was not given the opportunity to examine there witnesses so that Plain-tiff could prove any statements he may have made were true Truth is a defense.

Substantial truth is a complete defense to an action for defamation.

Morris vs Warren
770 p2d 539
160 AZ 55 1988

A Summary Judgment can only be granted by the Court when there is no issue of fact to be determined at trial.

This court abused its discretion in not granting the continuance as Plaintiff needed more time to prepare as the court can see from the current pleadings.

Therefore, the Defendant is not entitled to any monies and the attorneys are not en-titled to attorney fees.

EXHIBIT DS2

Defendant's 3rd Count for summary judgment the Plaintiff filed a lien for 1st party repre-sentation not 3rd party See Exhibits 11 & 12, Plaintiff's carrier Liberty Mutual

The contract that was signed by the Defendant was not in force at the hearing of June 20, 2002 Judge Albrecht ruled that Plaintiff could not do 3rd party claims but was allowed to do 1st party claims The Plaintiff was terminated by the Defendant on February 6, 2002, Exhibit 13) The contract was signed by the Defendant on 1/24/01, Exhibit CG. The Defendant benefits by the investigation of the Plaintiff as the Plaintiff found the 3rd party for Defendant and Defendant collected $10,000 on information and belief for herself and her children Since the Defendant terminated the Plaintiff on February 6 the contract was no longer in effect The contract was not void abinitio, but Defendant signed a valid contract AVS does not say a licensed adjuster can or can't do 3rd party claims Exhibit 5 Plaintiff cites Berenter vs Gallahger 173 AZ 75 839 P2D

The Appeals Court held on adjuster securing the insurance proceeds to an insured may be entitled to a lien on the proceeds 5H John Apple Baum and Jean Apple Baum Insurance law and practice 334 170 (1970)

The Appellate court also said an insurers partial assignment of insurance proceeds to an independent adjuster representing the uninsured is valid and enforceable.

Home Insurance Co vs. Gigi Fashions Inc 267F Supp 958 (D H 5).1967 The Court #5 An. attorney or an adjuster may be entitled to file a lien in the proceeds The Court clearly did not distinguish between a 1st party claim or 3rd party claim, and said an adjuster may put a lien on the proceeds Since the contract was not void abinitio and valid the Defendant signed

the contract Thus as the contract is valid the Defendant gave her permission to the Plaintiff to file a lien on the proceeds of her settlement There was no lien filed on real property, Exhibit 14 Therefore the Defendant should not be granted any monies and attorney fees should be granted There is no authority for a Rule 11 violation where a person could be fined $5000. Plaintiff submits the Rule 11 Statute, Exhibit 15. See also Exhibit A1 Plaintiffs Affidavit.

The Plaintiff filed a lien for 1st party representation as the Defendant gave him permission when she signed the valid contract Plaintiff did not defraud the Defendant as their was not intent See Exhibit 5 When the Defendant filed the 3rd party claim never came into effect, but Plaintiff was hired to do the 1st party claim A summary judgment can only be granted by the Court when there is no issue of fact to be determined at trial See Exhibit 5

EXHIBIT DS3

The Defendants accuse the Plaintiff of being in the unauthorized practice of law, the Plaintiff cited the Creasy case to the court in prior pleadings and in the summary judgment hearing of June 20, 2002 The Defendant misquoted this case and therefore the Plaintiff will make it very clear for this court to understand.

Creasy case 198 AZ 539,12 P3D 214 and 219 where Judge Martone of the Supreme Court concurs with Thomas Lahet Chief Justice, Charles_ E Jones Vice Chief and Ruth McGregeor, Justice.

Judge Martone states the jurisdiction over non-lawyers for activities outside article VI institutions are the direct result of the absence of an authorized practice of law statute The abuse creates a potential incongruity between the practice of law on one hand and the limited scope of the judicial department's enforcing authority.

Because the court does not possess the broader power of the state, the legislature — does the question of non-lawyers engaged in activities within 220 and 225 practice of law, yet unconnected to the institutions is complex and its answer must wait for another day In the meantime.

Defendant files claim that Plaintiff's contract is invalid because it violated the unauthorized practice of law in Arizona is spurious and has no merit The court can take judicial knowledge of the fact there is no unauthorized practice of law statue in Arizona The Defendant in this case deliberately on several occasions misrepresented the law in the Creasy case The Creasy case pending only applies-to disbarred lawyers It does not apply to other individuals as the Arizona Superior Court stated in the Creasy opinion.

The Plaintiff was legally settling personal injury cases in Arizona for 10 years - Plaintiff states see Exhibit 5 Therefore the Defendant should not be granted any monies and no attorney fees should be granted The Defendant wasted the Courts time The Plaintiff's contract is valid and not void abinitio.

A Summary Judgment can only be granted by the Court where there is no issue of fact to be determined at trial.

Plaintiff states during the hearing of June 20, 2002 the defendant Ard came up with a new idea.

EXHIBIT DS4
Summary Judgment Consumer Fraud

The Defendant stated the Plaintiff could not do 3rd party claims based on a ruling of Judge Albrecht on April 25, 2002 and that the Plaintiff committed consumer fraud on the Defendant by telling the Defendant he could do 3rd party claims.

The Plaintiff was legally doing 1st and 3rd party claims for 10 years The Arizona State Department of Insurance sent a circular letter to every insurance company in the United States stating in their opinion public adjusters in Arizona cannot do 3rd party claims The Plaintiff brought an action for declaratory relief as the Plaintiff in that action.

Plaintiff submitted the transcript of trial Judge Albrecht ruled that the Plaintiff could not do 3rd party claims under Arizona State Department of Insurance Licensing The attorney for the Attorney General's office stated there's no unauthorized practice of law statute in Arizona and she did not want the Plaintiff to suffer any hardship in business and that Plaintiff could settle 3rd party claims individually.

The Plaintiff cites the Creasy case where the Superior Court states that there is no unauthorized law statute in the State of Arizona thus Plaintiff could settle 3rd party claims individually Creasy case is in evidence.

The Defendant misrepresented to this Court that Defendant reported Plaintiff to the Bar Association and the Arizona State Department of Insurance for doing 3rd party claims That is not true, Defendant reported Plaintiff to these agencies that Plaintiff told Defendant that he was an attorney See Exhibit 6 .
Judge Albrecht ruled on July 25, 2002 that the Plaintiff could no longer do 3rd party claims Judge Albrecht said the Plaintiff could do 1st party claims, Exhibit 6 The Defendant fired the

Plaintiff on February 6, 2001, a year and a half before the summary judgment hearing of June 20, 2002 Therefore the Plaintiff's contract was not in force at the time of the hearing The Plaintiff helped the Defendant by finding her 3rd party so she did collect about $10,000 for pain and suffering As she found out she did not have uninsured motorist coverage.

Plaintiff also states there is no consumer fraud here because the Plaintiff did not intentionally intend to defraud the

Defendant, there must be intent for fraud to exist The Plaintiff's contract was valid not void abinitio.

The Plaintiff did not willfully, knowingly, or maliciously commit fraud on the Defendant, the Plaintiff intended to help her, which he did, the point is moot, this was a 1st party claim The Arizona Department of Insurance closed the case against the Defandant Ard See Exhibits 3, 5 & 8.

Therefore, there is no consumer fraud and therefore no attorney fees or monies granted to the Defendant on the issue of consumer fraud The Defendant again committed fraud on this court A Summary Judgment can only be granted by the court when there is no issue of fact to the determined at trial.

STATE OF ARIZONA)
) SS **EXHIBIT A1**
)
COUNTY OF MARICOPA)

AFFIDAVIT IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

Before me the undersigned notary public, personally appeared Irwin Gary Roberts, who upon being duly sworn deposes and says

1. My name is Irwin Gary Roberts

2. I am the president of Accident Assistance Centers of Arizona Inc. and Arizona corporation and the plaintiff in Case No. CV01 02761RA

3. At no time did I ever tell Patricia Ard or George Klidas that I was a licensed Arizona attorney nor did I ever tell either of them that I ever took cases to court and won them all. I told them I was a licensed adjuster in Arizona.

4. 1 specifically told both Particia Ard and George Klidas that I was a licensed as an adjuster to settle personal injury claims in Arizona and that I charged less than most attorneys do to settle cases

5. 1 did not slander Patricia Ard and any statements that I did make about her I believed at the time to be true and still believe them to be true today

6. 1 did not file alien for third party representation against Patricia Ard I filed a lien for investigating to determine if there was any third party coverage

7. The lien I filed against Patricia Ard was only a lien against the proceed of any money she would collect from the insurance company as she authorized me to do in the signed

contract The lien was not alien against her real property. I did not even know she owned any real property Exhibit C enclosed 8 That there is no legal prohibition in Arizona that would prohibit me from settling third party claims with insurance companies as an individual. This has been stated as the current state of the law in Arizona the Arizona Attorney General's office.

Dated June 10, 2002

Irwin Gary Roberts
IRWIN GARY ROBERTS

SWORN TO AND SUBSCRIBED before me this 10th day of June, 2002

My commission expires Notary Public

Guillermo Jiminez

EXHIBIT C

Irwin Gary Roberts
5629 S Sailors Reef Rd
Tempe AZ 85283
480-491-4020
Pro Per

IN THE PEORIA JUSTICE COURT IN THE STATE OF ARIZONA,
COUNTY OF MARICOPA

ACCIDENT ASSISTANCE CENTERS)		CASE NO CV
OF ARIZONA	)	I-0276RA
	)	AFFIDAVIT
Plaintiff	)	OF
	)	MICHAEL
vs.	)	WILENCHIK

PATRICIA ARD

Defendant

Michael Wilenchik, being first duly sworn under oath and under penalty of perjury, says he is over 18 years of age and he is fully competent and that he is under no legal restric-tion to state the following

I My name is Michael Wilenchik
2 1 am a licensed notary public in the state of Arizona
3 On or about January 24, 20011 was with Irwin Gary Roberts and Patricia Ard in Furr's Cafeteria in Sun City, AZ
4 Before I notarized the contract with Accident Assistance Centers of Arizona Inc
Mr. Roberts explained the terms of the contract to Patricia Ard and told her he was a licensed public adjuster, that he settled personal injury claims, and he was not licensed to practice law in the State of Arizona

I notarized the following documents for Patricia Ard, the contract, consent for medical and the power of attorney. Dated this 10th day of June, 2002

Subscribed and sworn to me before this 10th day of June 2002

My commission expires
January 06, 2006

Notary Public
Guillermo B. Jiminez

EXHIBIT D

IN THE SUPREME COURT
OF THE STATE OF ARIZONA

In the Matter of
ESTABLISHMENT OF THE JUDICIAL
OVERSIGHT COUNCIL OF THE
LIMITED JURISDICTION COURTS
OF MARICOPA COUNTY

The Supreme Court, having administrative supervision over all courts of the state pursuant to the Constitution of Arizona, Article VI, has over the past decade conducted numerous audits, operational reviews and special studies of the limited jurisdiction courts in Maricopa County

These audits, reviews and studies have revealed serious operational, administrative and misconduct problems Over the past thirty months, three judges have been removed from office for misconduct, three courts have been placed under the administrative control of the superior court presiding judge, two clerks from two courts have been charged or sentenced for theft of funds and an investigation is underway regarding possible theft of funds in a third court In all, during the thirty month period, at least eight of forty- six limited jurisdiction courts in Maricopa County have faced serious problems in the areas indicated

The existing governance structure is not adequate to manage effectively twenty-three justice of the peace courts and twenty-three municipal courts The decentralization of authority has led to poor communication, little or no coordination among courts, and policies and practices that are inconsistence from court to court and, in some instances, contrary to the strategic objectives of the Arizona Judicial Council (AJC) and the Arizona Supreme Court.

Additionally, the operation of many of these courts is inconsistent with the requirement of Article 6, Section 1, of the Arizona constitution that the state have an "integrated judicial department " Therefore,

IT IS ORDERED that the Judicial Oversight Council of the Limited Jurisdiction Courts of Maricopa County, hereafter referred to as the "Council," is established The Presiding Judge of the Superior Court in Maricopa County shall Chair the Council The membership of the Council shall be appointed by the Chief Justice and is attached to this Order as Appendix A The Chief Justice may appoint additional members as may be advisable

IT IS FURTHER ORDERED that the Council shall assist the superior court presiding judge of Maricopa County as follows

1 Develop and implement policies and procedures consistent with the direction set by the AJC that promote fair and equitable justice, uniformity, and effective case and financial management in limited jurisdiction court operations

2 Assist the Administrative Office of the Courts (AOC) and Commission on Technology in implementing the state standard automation application (the AZTEC system) in the Maricopa justice courts as quickly as feasible, linking local systems to the state data warehouse and putting into place data entry policies and procedures that ensure data quality

3 Assist with the implementation of a statewide Centralized Traffic Tickets and Collections Bureau Prior to implementation, the AOC shall complete a feasibility study to determine if such a bureau would result in improved efficiency in processing these cases, public service, and compliance with courts orders All justice of the peace courts and municipal courts in Maricopa County shall participate in the centralized traffic bureau unless specifically exempted by the Chief Justice for good cause

4 Review and recommend to the presiding judge of Maricopa County a uniform bond/deposit schedule for use in all justice of the peace and municipal courts Such schedule may take into account differences due to local fees authorized by the board of supervisors, city council or law

5 Review and monitor the corrective action plan prepared by a local court which addresses deficiencies identified in an operational review Any local court subject to such a review shall submit a corrective action plan to the Council

6 Report on the overall physical condition of court facilities relative to suitability and the adequacy of space provided and security of employees and the public

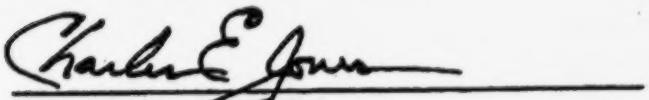
7 Assist the AOC in developing a "Courts of Distinction" program to recognize those courts meeting or exceeding standards to be developed by the AOC and the AJC The proposed standards shall be submitted to the AJC for its approval

IT IS FURTHER ORDERED that the provisions of Administrative Order No 96-32, VI-A, Section 2, relating to presiding justice of the peace, are suspended for Maricopa County All other provisions of Administrative Order No 96-32 that are not otherwise in conflict with this Order shall remain in effect

IT IS FURTHER ORDERED that administrative control of Justice Court Administration shall be assumed by Presiding Judge Colin Campbell, and the Justice Court Administrator and subordinate staff are to report to Presiding Judge Campbell or his designee Presiding Judge Campbell is authorized to enter orders to make personnel, management or organizational changes to Justice Court Administration as he deems necessary to accomplish the directives and goals of this administrative order

IT IS FURTHER ORDERED that the Oversight Council shall submit a progress report to the AJC not later than October 1, 2002, and each six months thereafter, or as otherwise requested by the AJC or this Court

Dated this 21st day of June, 2002



CHARLES E. JONES
Chief Justice

EXHIBIT E

ARIZONA DOESN'T BAR NON-LAWYERS FROM DOING LEGAL WORK

Arizona has had no statutes forbidding the unauthorized practice of law since 1984, when the one it had was automatically repealed by the legislature.

This means that non-lawyers probably cannot be prevented from doing much of the legal work in this state – work that before could have been done only by lawyers.

Unauthorized-practice statutes are the means by which many trades and professions protect their monopolies, doctors, dentists, barbers, cosmetologists and the members of a few dozen other groups legally exclude unlicensed people from offering the services they provide.

If you cut your own child's hair, for example, you can be prosecuted for engaging in the unauthorized practice of barbering.

But for now, at least, it appears that non-lawyers who provide legal services to others cannot be punished.

Courts, of course, have independent authority to determine who may practice in them. And they continue to exclude those who do not have licenses to practice law – except individuals representing themselves, a right citizens always have had.

A considerable volume of legal work, however, does not require court involvement. It even is possible for people to obtain non-lawyer assistance in drafting court documents for the purpose of representing themselves in the courts.

Many Americans cannot or will not pay the cost of lawyers

services. Often, they are too expensive.

Lawyers contend, with some justification, that their training and experience enable them to provide better service than non-lawyers.

But that misses the point. What lawyers are saying is that the public must choose between first-class service and no service at all.

The public is harmed by a system that excludes all less expensive alternatives.

Deregulating trades and professions would provide greater freedom for consumers. It would not eliminate licensed lawyers, barbers and others, but it would create options that now are unavailable.

The accounting profession always has worked this way. Those who meet established qualifications and pass certain tests are entitled to hold themselves out as CPAs. However, many people who lack this certification serve as public accountants, accountants and bookkeepers, most of them doing much of the same work as CPAs.

A strong argument can be made that all unauthorized practice laws should go the way of the statute on unauthorized practice of law.

Van O'Steen is a Phoenix Lawyer.

EXHIBIT 3
COMPLAINT FILE NOTES

DATE STAMPED.	6/14/01
CMP NAME, ADDRESS.	State Bar of AZ by Johansen, Francis
PHONE WORK:	252-4802 HOME
INVESTIGATOR:	Alonzo
CARRIER	
ADDRESS	
PHONE	
CONTACT	
TARGET	Irvin Gary Roberts
ADDRESS	
PHONE	
DATE RECEIVED	6/18/01

COMPLAINT SUMMARY

Francis Johansen ,IJPL Attorney for the State Bar of AZ, alleges that adjuster Irwin Gary Roberts is purporting himself to be an attorney in the state of Arizona

ACTION TAKEN:

6/18/01 Received and processed complaint for setup

Reviewed documentation supplied by Johansen, noted a "Special Power of Attorney" authorization form signed by Robert's client Patricia Ard The heading of the form includes license numbers for both Roberts and his company, Accident Assistance Centers of AZ There appears to a page missing from the authorization The complaint also includes a letter from Roberts to Ard,

which clearly shows that he was investigating Ard's claim

6/20/01 Revised 101 letter typed and mailed to Roberts

6/22/01 Pc from Roberts, states that he did not adjust the claim in question, states that the clt contacted him after the accident and wanted him to investigate the party at fault insurance
company States he investigated as requested and submitted a bill to the clt States that he made no effort to settle the claim States is going on vacation and won't be back until 7/15/01
Response deadline extended to 7/20/01

7/10/01 Received response for Roberts States did not adjust a 3rd party claim for Ard States that his attorney advised him that he could use the title, Corporate Counsel on his business card .

8/3/01 Pc to insured's carrier USSA 800 633-0942, spoke to Sherry Brust (CSR) states damages losses have been paid to Ard Medical has not been settled
Left voice mail message for claim handler Julie Woods (USAA) to call ASAP

Received *call* from claim handler Julie *'Woods,* states that although she has documentation that Roberts was representing
Ard, she has no direct evidence that would establish that Roberts is negotiated the claim (no demand letter, etc.) Woods states that she will fax some documentation as soon as possible.

8/10/01 Received more documentation from USAA; no evidence to establish that Roberts negotiated settlement of Ard's claim

8/22/01 Pc to Roberts, advised Roberts of need to document that he is aware that it is unlawful to adjust 3rd party claims, and that he agrees to change his business card by deleting "Corporate Counsel"

9/21/01 Pc to Roberts, left message for him to call ASAP
Return call from Roberts, states that he has been away for the past few weeks and will get the info to the ADOI by late next week.

10/18/01 Pc to Roberts Message left on voicemail

10/23/01 Pc from Roberts, states that he disagrees with ADOI's position relative to adjusting third party claims and has filed a suit against the ADOI for hindering his livelihood and can no longer discuss the matter. When asked to provide copies of all third party claims since September 2000, Roberts refused and indicated he would only comply by subpoena. Emailed GLM to advise how to proceed
Received copy of civil suit which is basically a request for Declaratory Relief

10/29/01

10/31/01 Reviewed Roberts': license file and learned that he was initially licensed in 1990, his license expired after four years and he had to re-apply in 95 No other irregularities found in either file

11-7-2001 File reviewed by AVS Awaiting response to subpoena for Roberts 3rd party claim files

11/8/01 File reviewed by AVS

EXHIBIT 5

Director's regulatory bulletin which spawned all these complaints from the AZ State Bar and various insurers does not say that a licensed adjuster can or can not adjust 3 party claims It merely spells out what an adjuster is and explains that the statute does not address 3'd party claims The ADOI's only concern would be what the adjuster represented to the client what his authority is under the license - If the adjuster tells the client that he is licensed to adjust those types of losses, that would be misrepresentation If the fact that the adjuster is licensed becomes a deciding factor to - employ the adjuster to handle a 3rd party claim, this may also be a concern of the ADOI We do not want anyone to believe that they have the protection of a regulatory agency should something go awry with the handling of a 3'd party claim when in fact there is no protection as the ADOI does not license adjusters to handle 3 rd party claims

11-23-2001 ADOI response to motion for protective order and injunctive relief

EXHIBIT 8

5-13-2002 Received copy of 5:.8-02 minute entry dismissing Robert's case against the ADOI
Reviewed file again Roberts' client actually filed a complaint with the state bar alleging that he represented himself as an attorney and told her that if anyone wanted to talk to her about the claim that she should tell them to contact her attorney There is no allegation that he misrepresented the authority of his adjuster's license permits him to handle 3rd party claims
Case closed

CLOSING DATE 5-13-02
RECOVERY 0

EXHIBIT 4

Accident Assistance Centers of AZ Auto and Property
Investigations Ad. Ins Lic 28761 & 28762
5629 S. Sailor's Reef Rd Tempe AZ 85283
1,629 S Sailor's Reef Rd Tempe, AZ
Phone (480) 838-HELP Toll Free 888-674-HELP
Mobile 480-570-HELP Fax 480-777-8822

(480) 777-8822
February 5 2001

Patricia Ard
1176 W. Larkspur
El Mirage AZ 85335

Dear Miss Ard,

I am in Chicago, Illinois on a business trip and will not be home for about 10 days.

Firstly after spending a complete day and evening in Sun City and Surprise Arizona I located Mr. Lovell and found that he does have insurance with USAA. I contacted his insur-ance co and gave them all the pertinent information as well as Liberty Mutual your carrier None of the insurance companies were aware of what was going on thus I accomplished a lot and your case can go forward at this point.

As I told you l have to report this claim to access and medicare In addition you will not be entitled any reimbursement on a rental car as you have not borrowed a car to date even though you were approved for a rental car you decided not to acquire a car.

Liberty Mutual told me they would pay for your car but can't determine the mileage on your vehicle

I hope your MR1 showed no objective findings on your shoulder and that you are well I also filed a claim for your children, where it will have to go to probate.

Since you were in an accident last year and settled your claim yourself and received $7,000, you have a duty to report this to USAA.

Respectfully yours,

Gary Roberts
BAMAMS LLB

EXHIBIT 6

Arizona Department of Insurance Investigations
2910 N 44th St, #210 •Phoenix, AZ 85018
Tel: 602-912-8444

COMPLAINT QUESTIONNAIRE

Date: 2/6/01 Phone Number 623-815-0993
Complainant Ard, Patricia J.
Address: 11768 W. Larkspur City: El Mirage State : AZ Zip: 85335
Insured: (if other that Complaintant) Accident Assistance of AZ Inc. Gary Roberts
Address: 5629 S. Sailor's Reef Rd. City: Tempe State AZ ZIP: 85283
Name of Insurance Company: Accident Assistance of AZ Inc.
Type of Insurance: Adj. Inc. Lic. #28761 & 28762
I submit the following information and represent that such information is accurate to the best of my knowledge and ability:
Mr. Roberts told me he was a attorney it turned out he wasn't so I fired him. He also had two (2) guys sign saying they witness my signature that didn't. He put a lien on my case and he said thing he should have to the other person Ins Company after I fired him that is not true. He did not help (do anything) for my case.

By my signature, I hereby acknowledge that the facts relating to the complaint will become a matt f public record, pursuant to Arizona law.

Signature: Patricia Ard

You will hear from us in writing as soon as we have definite information. .Persons with disabilities may request reasonable accommodations such as interpreters, alternative formats or assistance with physical accessibility Requests for accommodations must be made with 72 hours prior notice by contacting Don Harris at (602) 912-8402.

EXHIBIT 7

ATTN: FRAN JOHNSEN 2-5-01

I hired a man named Gary Roberts. He told my father he was attorney. My father have me his business card and had me call him he told me he was a attorney and he settled most of his cases out of court and the ones we went to court over he won all his cases.

When I meet him to sign papers he brought a notary. He notarize my papers that I signed they was one paper that needed two witnesses of my signing there was not anyone so the man took it to his work and had to of his co-workers sign the papers as witness He also wants me to have someone write a letter saying I am borrowing there car for $10.00 to $15.00 a week since the day after the accident. He told me to tell anyone who wants any answer about the accident to tell then to call my attorney

Thank you

Received
Feb 06 2001

EXHIBIT 9

PEORIA JUSTICE COURT
7420 W Cactus Rd, Peoria, AZ 85381 979-3234
Case No CVO 1-0271RA

Plaintiff Accident Ins Centers Of Arizona Inc. and Arizona Corporation
Irwin Gary Roberts
Counter Defendant

Defendant Particia Ard
11768 W. Larkspur Dr.
El Mirage AZ 85335

PLAINTIFF S RESPONSE TO DEFENDANT'S MOTION FOR ORAL ARGUMENTS FOR SUMMARY JUDGEMENT ON JUNE 20, 2002 SHOULD BE DENIED AND CONTINUED AT A LATER DATE

The Counter Defendant is not prepared to argue the Summary Judgment Motion on such short notice as Counter Defendant still has discovery to do and may want to supplement his answer to the Defendant s Motion for Summary Judgment and file a Motion for Summary Judgment on my own behalf

The Plaintiff cites 19 Arizona App 574 James Wesley Young vs Douglas L Peacock and William Appellees Court of Appeals of Arizona Division 1 Department B May 3, 1973 held the trial court abused its discretion in not granting the requested continuance. on Plaintiff's motion for Summary Judgment where the hearing was premature

The Counter Defendant respectfully requests this court to deny Defendant s Motion for Summary Judgment and to set oral arguments at a later date

Respectfully Submitted
Irwin Gary Roberts

Dated June 12 2002

Copy mailed to Defendant s Attorney on June 12,2002

Rebecca L Covell
Jennings Strouss &Salmon, P L C
The Collier Center 11th Floor
201 E Washington St Phoenix, AZ 85004

Copy faxed and mailed to the Court Hon Lex Anderson
Irwin Gary Roberts

EXHIBIT 11

Accident Assistance Centers of AZ, Inc
Auto and Property Investigations
Adj. Lic. 28761 & 28762
5629 S Sailor's Reef Rd
Tempe, AZ 85283
Phone: 480-838-HELP
Toll Free: 888-674-HELP
Fax: 480-777-8822

Confidential Document

Date: January 26, 2001 Number of Pages: 1
To: Steve Ramos Liberty Mutual PO Box 138013
Dept. #PD6411263771-03 Sacramento, CA 95811
Fax#: 916-564-5147 Dol 1/16/2001
From: Gary Roberts

Comments: I represent Patricia Ard on the above claim
I will be in contact with you to acquaint you with information
you need such as mileage and ownership.
I have not spoken to you before today.
Respectfully yours
Gary Roberts
RA MAMS LLB

EXHIBIT 12

Accident Assistance Centers of AZ, Inc
Auto and Property Investigations
Adj. Lic. 28761 & 28762
5629 S Sailor's Reef Rd
Tempe, AZ 85283
Phone: 480-838-HELP
Toll Free: 888-674-HELP
Fax: 480-777-8822

Confidential Document

Date: January 22, 2001 Number of Pages____

To: Steve Folmar Liberty Mutual PO Box 52043 Phoenix Arizona 602-997-0043 916-564-5197
Tara Reyes, Steve Ramos
PO Box 138003
Sacramento CA 95813-8003 (Odometer broken – mileage couldn't be read)

From: Gary Roberts
1800-565-5505

Comments Claim #PD6471263711
I represent Patricia Ard in the above claim # above for vehicle damage. A formal letter will follow.

Respectfully yours
Gary Roberts

EXHIBIT 13

Gary Robert 2/6/01

It has come to my attention that you are not a attorney in the state of Arizona. You have misrepresented yourself therefore I am revoking your privilege to represent me. Also revoking the power of attorney and papers I signed for the accident that occurred on 1/16/01.

Sincerely

Patricia J. [illegible]

EXHIBIT 14

When recorded, mail to:
Name: Irwin Gary Roberts
Address: 5629 S. Sailor's Reef Rd.
City State Zip Code Tempe, AZ
85283
OFFICIAL RECORDS OF MARICOPA COUNTY
RECORDER HELEN PURCELL
2001-0143991 **02/27/2001 12:02**

NOTICE AND CLAIM OF CONTRACT LIEN

NAME OF CLIENT Patricia Jeanne Ard
ADDRESS OF CLIENT 11768 w. Larkspur, El Mirage, AZ
85335
DATE OF LOSS: 1/16/2001
DATE OF SIGNING CONTRACT: 1/24/2001
INSURANCE CARRIER: USAA Claim# 78851
AMOUNT DUE CLAIMANT FOR SERVICES
RENDERED:$21,000 – 16 hours @ $125/hour
AMOUNT DUE CLAIMANT FOR SERVICES RENDERED
9; 00 a$_b$
STATE AND COUNTY IN WHICH CONTRACT WAS
SIGNED: Arizona, Maricopa County

To the best of the claimant's knowledge, the names and addresses of all persons and insurance carriers claimed by the above named client, are to be liable for damages as follows:

Name Address PO Box 35718
USAA claim #78851 Colorado Springs CA 80935
Adjuster Julie Woods
Pursuant to State Law, the above named client, personally or through its authorized agent does hereby claim a lien upon any and all actions, suits, claims, counterclaims or demands for damages accruing to said client on his(her) behalf by a legal representative, assignee or heirs on account of injuries

giving rise to such cause of action, and which necessitated claimants representation in this matter for which claimant rendered adjuster services at the rate customarily charged for such services at $125.00 an hour the sum of which is due and payable as indicated above,

Dated
2/27/2001

EXHIBIT CG

Accident Assistance Centers of AZ Auto and Property
Investigations Ad. Ins Lic 28761 & 28762
5629 S. Sailor's Reef Rd Tempe AZ 85283
1,629 S Sailor's Reef Rd Tempe, AZ
Phone (480) 838-HELP Toll Free 888-674-HELP
Mobile 480-570-HELP Fax 480-777-8822
(480) 777-8822
5629 S Sailor's Reef Rd Tempe,:

I (we) agree to pay Accident Assistance C enter of Az, Inc 5629 S Sailors Reef Rd , Tempe AZ 85283, 30% of the total settlement in pursuit of this claim

I (am) (we) are to pay for out of pocket expenses to obtaining records in pursuit of this claim if private investigations are conducted, there is a charge of $75.00 per hour
If an interpreter is needed, there is a charge of $45.00 per hour

If there is no recovery there is no monies of fees due Accident Assistance Center of Arizona, Inc , for any work done, in pursuit of this claim, bur if their is a recovery all monies are due to Accident Assistance Center of Az , Inc.
Principal Patricia Ard Dated 1/24/2001

Principal ,Sandy Ard, 5 Brandy Ard, 4 Dated 1/24/2001

Acknowledgement on this date of 24th before me, a Notary Public, personally appeared Patricia Ard and was known to me or satisfactorily proved to be the person whose name is subscribed in a representative capacity, it is for the principal named and in the capacity indicated. This Contract was acknowledged before me witnessed by my hand and Official Seal

Michael Willenchek

State AZ Country USA Signature of Notary Public
Notary Commission Expires 6/12/2004

Supreme Court, U.S.
FILED
3
03 930 AUG 12 2003

135

Docket Number_____

In the Supreme Court of the United States

Irwin Gary Roberts,
Petitioner,
v.
Patricia Jeanne Ard,
Respondent

APPENDIX 1

TABLE OF CONTENTS
APPENDIX 1

Exhibit A – Plaintiff's Counter Defends Answer to Defendant's Motion for Summary Judgment.....page 137, 138, 140
Exhibit A1 – Plaintiff's Affidavit in Opposition for Motion for Summary Judgment.....page 140
Exhibit D – Affidavit of Michael Wilenchik, Notary.....page 142
Exhibit B – Affidavit of Patricia Ard, Defendant.....page 144
Exhibit B1 – Affidavit of George Kiledas, Defendant's Father.....page 147
Exhibit C – Plaintiff's Motion for Reconsideration.....page 141, 149
Exhibit E – Motion for Entry of Judgment, to Dismiss Counterclaim and to Prohibit the Rise of Witnesses and Coincidence by the Defendant.....page 152
Exhibit F – Motion for Entry of Judgment, to Dismiss Counterclaim and to Prohibit the Use of Witnesses and Evidence by Defendant.....page 154
Exhibit G – Plaintiff's Motion for Rule 11 Sanctions Oral Argument Requested.....page 156
Exhibit H – Plaintiff States Style of Case is Incorrect and the Correct Legal Style of the Case Should Be As Shown in This Pleading.....page 162
Exhibit I – Plaintiff's Response to Defendant not for Oral Argument for Summary Judgment on June 20, 2002 Should be Denied and Continued at a Later Date.....page 164
Exhibit ROL– Notice of Removal of Contract Lien.....page 166
Exhibit T3 – Complaint File Notes by the Arizona State Department of Insurance.....page 169
Exhibit C1 Senate Bill 1016.....page 174
Exhibit SC Minute Entry.....page 176
Exhibit SJH Transcript Proceedings.....page 179

EXHIBIT A

PEORIA JUSTICE COURT
7420 w. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff: Accident Assistance Center of
AZ, Inc., an Arizona Corp.
IRWIN GARY ROBERTS,
Counter Defendant
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard
11768 W. Larkspur Dr.
El Mirage, AZ 85335

CV2002-017209

PLAINTIFF'S/COUNTER DEFENDANT'S ANSWER TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, Accident Assistance Center of AZ, Inc. and Irwin Gary Roberts, Counter Defendant, in response to the Defendant's Motion for Summary Judgment allege as follows:

Defendant's first count for summary judgment alleges consumer fraud based upon the fact that the Plaintiff allegedly told the defendant and her father (George Klidas) that he was a licensed Arizona attorney. The Plaintiff and Irwin Gary Roberts deny that Patricia Ard or her father were ever told that Irwin Gary Roberts was a licenses Arizona attorney. The affidavit of Irwin Gary Roberts is attached hereto as Exhibit A. Attached is Affidavit of Michael Wilenchik Exhibit D

Defendant's second count for summary judgment alleges slander per se. Truth is a defense to any action for slander. Plaintiff believes that the statements be made regarding Patricia Ard are

not slanderous, are true and will prove them in court. See Exhibit A attached hereto.

Defendant's third count for summary judgment asks for Rule 11 Sanctions because Plaintiff filed a lien for alleged third party representation. The plaintiff did not file a lien for third party representation. The lien filed was for work done pursuant a contract for investigation to see if there was any third party coverage. No claim was ever made by the plaintiff for third party representation. See Exhibit A attached hereto.

Defendant's fourth count for summary judgment alleges an invalid Lien in violation of A.R.S. 33-420. This statute only applies to liens against real property. The lien filed by the plaintiff in this case was only against the proceeds of the defendant's settlement. Which the defendant agreed to when she signed the plaintiff's contract. There was no lien filed against the defendant's real property. Defendant has misrepresented this lien to the court as she has done in almost every other matter throughout this case.

Defendant's fifth claim that the plaintiff's contract is invalid because it violated the unauthorized practice of law in Arizona is spurious and also has no merit. The court can take judicial knowledge of the fact that there is no unauthorized practice of law statute in Arizona and therefore there is no basis for this claim. The Defendant in this case deliberately misrepresented the law in citing the Creasy case. The Creasy case holding only applies to disbarred lawyers. It does not apply to other individuals and the Arizona Supreme Court stated this in the Creasy options.

Defendant's final claim that the contract was voidable because it was allegedly procured by fraud is also not true. Neither the defendant nor her father was ever told that Irwin Gary Roberts was a licensed Arizona attorney. See Exhibit A.

A summary judgment can only be granted by the court when there is no issue of fact to be determined at trial. In this case every claim brought by the defendant in her motion for summary judgment has an issue that can only be determined after a trial or it has no basis in law to be granted. All the defendant's claims for summary judgment must by law be denied.
Dated June 10, 2002

Irwin Gary Roberts

Copy mailed to defendant Attorney on June 10, 2002.

Rebecca L. Covell
Jennings, Stross & Salmon, P.L.C.
201 E. Washington St., 11th Floor
Phoenix, AZ 85004-2385

Irwin Gary Roberts
Copy hand delivered to Court
Hon. Lex Anderson

EXHIBIT A1

STATE OF ARIZONA)
) SS:
COUNTY OF MARICOPA)

AFFIDAVIT IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

Before me the undersigned notary public, personally appeared Irwin Gary Roberts, who upon being duly sworn deposes and says:

My name is Irwin Gary Roberts.

I am president of Accident Assistance Centers of Arizona, Inc., an Arizona corporation and the plaintiff in Case No. CV01-02761RA.

At no time did I ever tell Patricia Ard or George Klidas that I was a licensed Arizona attorney nor did I ever tell either of them that I ever took cases to court and won them all. I told them I was a licensed adjuster in Arizona.

I specifically told both Patricia Ard and George Klidas that I was a licensed as an adjuster to settle personal injury claims in Arizona and that I charged less than most attorneys do to settle cases.

I did not slander Patricia Ard and any statements that I did make about her I believed at the time to be true and still believe them to be true today.

I did not file a client for third party representation against Patricia Ard. I filed a lien for investigating to determine if there was any third party coverage.

The lien I filed against Patricia Ard was only a client against the proceed of any money she would collect from the insurance company as she authorized me to do in the signed contract. The lien was not a lien against her real property. I did not even know she owned any real property. Exhibit C Enclosed

That there is no legal prohibition in Arizona that would prohibit me from settling third party claims with insurance companies as an individual . This has been stated as the current state of the law in Arizona the Arizona Attorney General" office. See the p[art of the transcript enclosed as Exhibit B.

Dated: June 10, 2002

IRWIN GARY ROBERTS
SWORN T0 AND SUBSCRIBED
before me this 10 day of June, 2002
My commission expires:

Notary Public

Irwin Gary Roberts
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020
Pro Per

EXHIBIT D

IN THE PEORIA JUSTICE COURT IN THE STATE OF ARIZONA, COUNTY OF MARICOPA

ACCIDENT ASSISTANCE CENTERS)
CASE NO. CV1-0276RA
OF ARIZONA)
AFFIDAVIT OF
)
MICHAEL WILENCHIK
Plaintiff)
)
vs.)
)
PATRICIA ARD)
)
Defendant)
)

Michael Wilenchik, being first duly sworn under oath and under penalty of perjury, says her is over 18 years of age and he is fully competent and that he is under no legal restriction to state the following:

My name is Michael Wilenchik.

I am a licensed notary public in the state of Arizona.

On or about January 24, 2001 I was with Irwin Gary Roberts and Patricia Ard in Furr's cafeteria in Sun City, AZ.

Before I notarized the contract with Accident Assistance Centers of Arizona Inc., Mr. Roberts explained the terms of the contract to Patricia Ard and told her he was a licensed pubic adjuster, that he settled personal injury claims, and he was not licensed to practice law in the State of Arizona.

I notarized the following documents for Patricia Ard, the contract, consent for medical and the power of attorney.

Dated this 10 day of June, 2002

Subscribed and sworn to me before this 10 day of June 2002.

My Commission expires

Notary Public

EXHIBIT B

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
Attorneys for Defendant Patricia Ard

IN THE PEORIA JUSTICE COURT
IN THE STATE OF ARIZONA, COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba ACCIDENT ASSISSTANCE CENTER OF AZ, INC.

Plaintiff,

vs.

PATRICIA ARD,
Defendant

No. CV-01-02761RA

AFFIDAVIT OF PATRICIA ARD

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

PATRICIA ARD, being first duly sworn under oath and under penalty of perjury says that she is over 18 years of age, that she is fully competent, that the following Affidavit is based on her personal knowledge, and that she is under no legal restriction to state the following:

My name is Patricia Ard, and I am the Defendant in the above-referenced matter.

On or about January 16, 2001, I was involved in an automobile accident.

Within a few days after the accident, my father, George Klidas, gave me Gary Roberts' business card, a copy of which is attached hereto as Exhibit A.

My father told me he met Mr. Roberts at Casino Arizona, and that Mr. Roberts had told my father he was an attorney.

I noticed the "Scales of Justice" on the business card, and understood that to mean that Mr. Roberts was an attorney.

Based upon the information contained in the business card, and Mr. Roberts' statements to my father, I called the number listed on the card and spoke with Mr. Roberts over the phone, while my father sat with me, listening to my end of the conversation.

During the initial telephone conversation, Mr. Roberts told me he was an attorney, that he settled most of his cases out of court, and of the cases he took to court, he won.

I made an appointment with Mr. Roberts to meet with my father and me at my house.

During the meeting at my house, Mr. Roberts told my father and me that if he decided to take the case, neither my husband nor my father could be involved in the lawsuit, because I was the one who had had the car accident.

Mr. Robert's insisted on meeting with me alone to sign the paperwork.

On or about January 24, 2001, I met Mr. Roberts at Furr's Cafeteria to sign the paperwork, which included a contract, a Special Power of Attorney, and a Consent and Medical Information Authorization, copies of which are attached hereto as Exhibit B.

After I had signed the paperwork, Mr. Roberts advised me that if anybody asked me any information about my car accident, I should tell them to contact my attorney (meaning Mr. Roberts.

Dated this 18 day of February, 2002.

PATRICIA ARD

SUBSCRIBED AND SWORN TO before me this 18th day of February, 2002.

Notary Public

My Commission Expires:

EXHIBIT B1

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
Attorneys for Defendant Patricia Ard

IN THE PEORIA JUSTICE COURT
IN THE STATE OF ARIZONA, COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba| No. CV-01-02761RA
ACCIDENT ASSISSTANCE CENTER OF AZ, INC.,

AFFIDAVIT OF GEORGE KLIDAS

Plaintiff,
vs.
PATRICIA ARD,
Defendant

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

GEORGE KLIDAS, being first duly sworn under oath and under penalty of perjury says that he is over 18 years of age, that he is fully competent, that the following Affidavit is based on his personal knowledge, and that he is under no legal restriction to state the following:

My name is George Klidas, and I am the father of the Defendant in the above-referenced matter.

I met Gary Roberts some time in November, 2000, while I was working at Casino Arizona.

Mr. Roberts came into the casino, he gave me his business card and told me that he was an attorney, and asked me to pass on his business card to anybody who needed an attorney.

While Patricia was in the hospital recovering from an automobile accident that occurred on January 16, 2001, I told Patricia's husband, Jerry Ard, that I knew an attorney named Gary Roberts, and that I had met Mr. Roberts at Casino Arizona.

I was with my daughter, Patricia, during her initial telephone conversation with Mr. Roberts, and when Mr. Roberts met with Patricia in her home.

During the meeting at Patricia's house, Mr. Robert's told Patricia and me that if he decided to take the case, neither Patricia's husband nor I could be involved in the lawsuit.

Mr. Roberts insisted on meeting alone with Patricia to sign the paperwork.

Dated this 18 day of February , 2002.

GEORGE KLIDAS

SUBSCRIBED AND SWORN TO before me this 18th day of February, 2002.

Notary Public

My Commission Expires:

EXHIBIT C

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff: Accident Assistance Center of	Defendant: Patricia Ard
AZ, Inc., an Arizona Corp.	CV2002-017209
IRWIN GARY ROBERTS, Counter Defendant	
5629 S. Sailors Reef Rd.	11768 W. Larkspur
Tempe, AZ 85283	El Mirage AZ 85335
(480) 491-4020	

PLAINTIFFS' MOTION FOR RECONSIDERATIOIN
ORAL ARGUMENT REQUESTED

Plaintiffs, Accident Assistance Center of AZ, Inc. and Irwin Gary Roberts, Counter Defendant, hereby request that the Court reconsider its ruling granting summary judgment to the defendant on all counts as grounds therefore alleges:

The law regarding when a summary judgment may be granted by the court is clear and unambiguous:

There are three requirements that must be met before a summary judgment may be granted. First, there can be no genuine dispute as to any material facts. Second, only one inference can be drawn from the undisputed facts. Third, that based solely upon the undisputed facts, the moving party is entitled to a judgment as a matter of law.

Dutell Inns of America, Inc. vs. Horizon Corp., 18 AZ App. 116 (1972).

In a summary judgment proceeding, the court does not try the issues of fact, but only determines whether or not there are any genuine issues of fact. Yavapai County vs. Wilkenson, 111 Ariz. 530 (1975).

On a motion for summary judgment, the litigants are entitled to a trial if there are any genuine issues of fact. City of Phoenix vs. Space Data Corp, 111 Ariz. 528 (1975).

Minimal evidence in the affidavit of the party opposing the summary judgment showing there is a material factual, issue entitles the party opposing the affidavit to a trial. Gibbons vs. Glove Development, Nevada, Inc., 113 Ariz. 394 (1976).

In a summary judgment proceeding, the court must construe the pleadings and the evidence most favorably to the party opposing the summary judgment,. Savonu Masonary Co. Inc, vs. Homes and Sons Construction Co. In., 112 Ariz. 392

There is no dispute as to what the law says regarding what the court should consider in making a decision on a motion for summary judgment. The court in this case clearly either misunderstood or misapplied the law. The plaintiffs in their response, under oath, disputed a material fact in every count that the defendant alleged in support of her motion for summary judgment necessary for the defendant to prevail.

There is absolutely no legal way if this court follows the law that this court could grant the defendant's motion for summary judgment as to all counts. To do so is to totally

disregard the law and the facts in this case as it relates to summary judgments in Arizona.

Even the defendant's counsel cannot dispute what the law is in regard to summary judgments as stated above. Defendant's counsel also cannot say in good faith that the plaintiffs did not dispute a material fact in each count of the defendant's motion. Defendant's counsel has an ethical obligation under the Rules of Professional Conduct to inform the court of the correct law as it applies to a case even if it is contrary to their client's own interest.

The court should do what is just and proper in this case by granting the plaintiffs' motion for reconsideration, denying the defendant's motion for summary judgment and setting this matter for trial. To do otherwise, is it deliberately and willfully ignore the undisputed law of this state that judges are duty bound to follow.

WHEREFORE, the plaintiffs respectfully request that this court grant their motion for reconsideration.

Dated: June -26, 2002.
Irwin Gary Roberts
Copy mailed to defendant's Attorney on June 26, 2002.
Rebecca L. Covell
Jennings, Stross & Salmon, P.L.C.
201 E. Washington St., 11th Floor
Phoenix, AZ 85004-2385

Irwin Gary Roberts
Faxed to Court 623-979-3234
Mailed to Court - 7420 W. Cactus Rd.
Peoria, AZ 85381
Peoria Justice Court

EXHIBIT E

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff:
IRWIN GARY ROBERTS,
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard
11768 W. Larkspur
El Mirage AZ 85335

MOTION FOR ENTRY OF JUDGMENT, TO DISMISS COUNTERCLAIM AND TO PROHIBIT THE USE OF WITNESSES AND EVIDENCE BY THE DEFENDANT

Plaintiff, IRWIN GARY ROBERTS files this Motion For Entry of Judgment, To Dismiss Counterclaim and to Prohibit the Use of Witnesses and Evidence by the Defendant in this matter as grounds therefore alleges:

The Defendant was required to file her Disclosure Statement on or before the 22nd day of November, forty days after the filing of her answer on October 12, 2001. It is now December 10, 2001 and the Defendant still has not filed her disclosure statement even though she acknowledged through her attorney that she received a copy of the Plaintiff's Disclosure Statement approximately two weeks ago.

During the time that the Disclosure Statement was due, the Defendant and her attorneys have filed numerous motions, researched other cases the Plaintiff has been involved in over the years, sent letters to the Plaintiff and have talked to him on the phone. They have no valid excuse for not timely filing their Disclosure Statement.

WHEREFORE, plaintiff respectfully requests that the Court enter a judgment for the Plaintiff, dismiss the Defendant's Counterclaim and prohibit the Defendant from calling any witnesses or introducing any evidence on the Plaintiff's claim because of her deliberate neglect in failing to file a Disclosure Statement as ordered by this court.

Dated: December 10, 2001.

Irwin Gary Roberts

EXHIBIT F
PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff:
IRWIN GARY ROBERTS,
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard
11768 W. Larkspur
El Mirage AZ 85335

MOTION FOR ENTRY OF JUDGEMENT, TO DISMISS COUNTERCLAIM AND TO PROHIBIT THE USE OF WITNESSES AND EVIDENCE BY THE DEFENDANT

Plaintiff, Irwin Gary Roberts, files this Motion For Entry of Judgment, to Dismiss Counterclaim and to Prohibit the Use of Witnesses and Evidence by the Defendant in this matter and as grounds therefore alleges:

The Defendant was delinquent in filing her Disclosure Statement on December 10, 2001 and the Plaintiff brought it to the Court's attention at that time. (exhibit A)

Five months have passed since it was brought to the Court's attention and the Defendant has not filed a Disclosure Statement. There is absolutely no excuse for defendant's failure to file her disclosure Statement.

WHEREFORE, Plaintiff respectfully requests that the Court enter a judgment for the Plaintiff, dismiss the Defendant's Counterclaim and prohibit the defendant from calling any witnesses or introducing any evidence on

the Plaintiff's claim because of her deliberate neglect in failing to file a Disclosure Statement as ordered by this court.

Dated: May 8, 2002.

Irwin Gary Roberts

Copy mailed to Defendant's Attorney on May 8, 2002, and a copy hand-delivered to the Judge.

Rebecca L. Covell
Jennings, Strouss & Salmon, P.L.C.
The Collier Center, 11th Floor
201 E. Washington Street
Phoenix, AZ 85004

Irwin Gary Roberts

EXHIBIT G

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 84381 979-3234
Case No. CV01-02761RA

Plaintiff: Accident Assistance Center of	Defendant: Patricia Ard
AZ, Inc., an Arizona Corp.	CV2002-017209
IRWIN GARY ROBERTS,	
Counter Defendant	
5629 S. Sailors Reef Rd.	11768 W. Larkspur
Tempe, AZ 85283	El Mirage AZ 85335
(480) 491-4020	

PLAINTIFF'S MOTION FOR RULE 11 SANCTIONS
ORAL ARGUMENT REQUESTED

Plaintiffs, Accident Assistance Center of AZ, Inc. and Irwin Gary Roberts, Court Defendant, hereby request that Rule 11 Sanctions be imposed on the defendant and her counsel for their misconduct in this case and as grounds there allege:

STATEMENT OF FACTS

This action was commenced when Accident Assistance Center of Arizona, Inc. filed a small claims action against Patricia Ard. Patricia Ard, had settled a previous accident claim on her own behalf, but she had been unable to find the party who ran into her in a subsequent accident to see if he had insurance so she could collect from her own insurance company on her uninsured motorist coverage. Her father told her about the plaintiff. The first time the defendant met with

the plaintiff, she refused the Plaintiff's services because she did not want to pay $125.00 per hour for the investigation required to be done by the plaintiff to initiate the first party claim She finally retained Accident Assistance Center of Arizona, Inc. to do an investigation to find the party who hit her in this newest accident so she could proceed with her first party claim against her own insurance company. She signed a contract with Accident Assistance Center, Inc. agreeing to pay $125.00 an hour for investigation time because she was unable to get this information after weeks of trying herself. Thereafter, the plaintiff set out to get the information so that first party claim could be processed.

Accident Assistance Center of Arizona, Inc. spent approximately sixteen hours investigating and was finally able to locate the party who had injured the defendant in this most recent accident. Accident Assistance Center of Arizona, Inc. filed notices with the defendant's own insurance carrier putting them on notice as to the first party claim. Subsequently, the plaintiff also found out that there was third party coverage and that the defendant did not have any uninsured motorist coverage. When the plaintiff told the defendant how much time and money had been expended in finding the party and subsequently discovering that there was third party coverage, Patricia Ard said she would not pay that amount she agreed to pay the plaintiff to investigate the first party claim. She further told that plaintiff that if the plaintiff did not agree to waive this investigation fee she would fire the plaintiff and cause the plaintiff a lot of trouble by telling everyone that he said he was a lawyer.

The Plaintiff refused to waive this fee because the plaintiff has done this work on the first party claim at the defendant's request and pursuant to the contract signed by the defendant. The plaintiff was lawfully permitted to do this investigation and receive a fee for doing so under A.R.S. 32-401 and 20-

321. Even Judge Albrecht in her minute entry stated the plaintiff was authorized to do first party claims. As a result of the plaintiff's refusal to waive its investigation fee, the defendant fired the plaintiff and wrote letters to everyone she could wrongfully accusing him of lying to her and deliberately trying to damage his personal and business reputation. Thereafter, the plaintiff, Irwin Gary Roberts, not Accident Assistance Center of Arizona, Inc., sued Patricia Ard individually for defamation in the civil division of the Justice Court because the defendant deliberately lied about what he had said in a effort to forgo a fee that Accident Assistance center of Arizona, Inc. was legally entitled to receive and that the defendant had contractually agreed to pay. These were two separate cases with two separate plaintiffs in two separate divisions of the Justice Court with one common defendant.

The defendant then moved to consolidate the two cases because although there were two separate plaintiffs, there was one common defendant and some common facts in both cases. In an effort to speed this matter along, both Accident Assistance Center of Arizona, Inc. and Irwin Gary Roberts, the two separate plaintiffs agreed to the consolidation. It was at this time that the defendant's counsel deliberately changed the style of the case without any valid or legal reason for doing so which mislead the court into believing that there was only one plaintiff and because the value of the two separate claims combined exceed $10,000, the Court no longer had jurisdiction of the case. The defendant's counsel did this by changing the style of the case to read "Irwin Gary Roberts dba Accident Assistance Center of Arizona, Inc." This deliberate act by counsel for the give any other valid reason for doing this either. This misstatement of the correct plaintiffs was repeatedly brought to the attention of the defendant's counsel, but they continued to perpetrate this fraud on the court and on the plaintiff. There can be no other reasonable conclusion

give any other valid reason for doing this either. This misstatement of the correct plaintiffs was repeatedly brought to the attention of the defendant's counsel, but they continued to perpetrate this fraud on the court and on the plaintiff. There can be no other reasonable conclusion drawn but that this was done in bad faith and therefore subject to the sanctions of Rule 11.

The defendant also committed other Rule 11 Violations in this case for the sole purpose of harassing the plaintiffs and misleading the court. The defendant has alleged in her pleadings that the plaintiff has committed the "unauthorized practice of law" when in fact there is no "unauthorized practice of law" statute in Arizona. This allegation was made without foundation merely to harass the plaintiff. Even the Attorney General admitted there is no unauthorized practice of law statute in Arizona that would prohibit the plaintiff individually from doing third party claims.

The defendant's counsel filed a claim against the plaintiff for allegedly filing a lien against her real property. The lien clearly says that it is a lien only against the proceeds of any insurance settlement. There is no legal description in the lien. This is just another example of the defendant's counsel misleading the court in an effort to harass the plaintiff.

Additionally, the plaintiff misrepresented the investigation the plaintiff did for the defendant in this case. The plaintiff had the right under law to investigate to gather the necessary information needed to file a first party claim, which is what he did in this case. The defendant's counsel kept deliberately misleading the court by stating that the plaintiff's claim in this matter is for investigating a third party claim.

MEMORANDUM IN SUPPORT OF MOTION FOR RULE 11 SANCTIONS

Rule 11 requires every person filing a pleading to make a reasonable investigation to determine that the pleading is filed in good faith, not for the purposes of delay, harassment or to drive up the costs of litigation. The pleadings filed by the defendant's counsel as outlined above clearly violated these provisions of Rule 11. If an honest mistake is made, a party would correct it as soon as possible. The plaintiff in this case notified the defendant's counsel about the correct legal status of the plaintiffs, but the defendant's counsel deliberately failed to correct it even though defendant's counsel knew it was wrong. This shows clear intent of a deliberate violation of Rule 11.

All of the other actions of misconduct as stated above are also evidence of deliberate and calculated pattern of misconduct in a manner to harass and intimidate the plaintiff as well. This pattern of deliberate misconduct is clear proof of the Rule 11 violations. The transcript of the defendant's counsel comments at the motion for summary judgment proving this misconduct has been ordered by the plaintiff and will be furnished to the court as soon as it is transcribed from the court tape which the court also has a copy of .

WHEREFORE, the plaintiff respectfully requests that this court send a clear message to the defendant and her counsel that this kind of unethical conduct will not be tolerated by this court. Appropriate sanctions should be significant fines, reimbursement to the plaintiff of all time and expenses attributed to this misconduct and striking of the defendant's pleadings.

Dated: June 25, 2002

Irwin Gary Roberts

Copy mailed to defendant's Attorney on June 25, 2002.

Rebecca L. Covell
Jennings, Stross & Salmon, P.L.C.
201 E. Washington Street 11th Floor
Phoenix, AZ 85004-2385

Irwin Gary Roberts

Exhibit H

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
201 W. Jefferson, Phoenix, Arizona 85003

CIV# 2002 217209
New CIV # 2002-107209

Plaintiff:
IRWIN GARY ROBERTS,
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard

11768 W. Larkspur
El Mirage AZ 85335

The Plaintiff states the style of the case is incorrect and the correct legal style of the case should be as shown in this pleading.

The Plaintiff informed the Justice Court of the error with copies to Defense Counsel on many occasions and wants to bring it to the attention of the Superior Court.

The Plaintiff on numerous occasions in his pleading, which can be found in the appellate file, requested the Justice Court to correct the legal style of this case, with copies to Defense, to no avail.

The Plaintiff requests this Court to straighten out the error in the legal style of this case because it also has an effect on who is liable, which is one of the issues which is on appeal in this case.

Date: September 11, 2002.

Irwin Gary Roberts

Copies mailed to: 9/11/02
Rebecca L. Covell
Jennings, Strouss & Salmon, P.L.C.
The Collier Center, 11th Floor
201 E. Washington St.
Phoenix, AZ 85004

Copy hand-delivered to Judge Michael Jones
201 W. Jefferson, Phoenix, Arizona 85003

Irwin Gary Roberts

EXHIBIT 1

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff:
IRWIN GARY ROBERTS,
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard

11768 W. Larkspur
El Mirage AZ 85335

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION FOR ORAL ARGUMENTS FOR SUMMARY JUDGMENT ON JUNE 20, 2002 SHOULD BE DENIED AND CONTINUED AT A LATER DATE

The Counter Defendant is not prepared to argue the Summary Judgment Motion on such short notice as Counter Defendant still has discovery to do and may want to supplement his answer to the Defendant's Motion for Summary Judgment and file a Motion for Summary Judgment on my own behalf.

The Plaintiff cites 19 Arizona App 574 James Wesley Young vs. Douglas L. Peacock and William Appellees Court of Appeals of Arizona Division 1 Department B. May 3, 1973 held the trial court abused its discretion in not granting the requested continuance on Plaintiff's motion for Summary Judgment, where the hearing was premature.

The Counter Defendant respectfully requests this court to deny Defendant's Motion for Summary Judgment and to set oral arguments at a later date.

Respectfully submitted

Dated June 12, 2002
Irwin Gary Roberts

Copy mailed to Defendant's Attorney on June 12, 2002.

Rebecca L. Covell
Jennings, Strouss & Salmon, P.L.C.
The Colllier Center, 11th Floor
201 E. Washington St.
Phoenix, AZ 85004

Irwin Gary Roberts

Copy faxed and mailed to the Court Hon. Lex Anderson

Exhibit ROL

Maricopa County Recorder
2001-014399 - 2/25/2001

NOTICE OF REMOVAL OF CONTRACT LIEN

My client Patricia Jeanne Ard
Address of Client- 11768 W. Larkspur, El Mirage, AZ 85335
Date of Signing this Contract 1/24/2001
Date of Loss 1/16/2001
Amount Due $2,006 - 16 hours at $125 per hour
plus Police Report $6,00
The removal of this lien does not prelude Irwin Gary Roberts from suing Patricia Jeanne Ard in a Civil Court or prejudice Irwin Gary Roberts in any court proceedings currently in progress.
I, Irwin Gary Roberts am the claimant who filed this lien and wish to remove the lien as of December 4, 2001.

Respectfully Yours,

Irwin Gary Roberts
5629 S. Sailors Reef Rd.
Tempe, AZ 85283

U.S.A.A. claim # 78851
Adjuster _____
P.O. Box 35718, Colorado Springs
Colorado, 80935-37

RECORD AS IS

The Defendant Ard waisted the Courts time as to the issue of an invalid lien that Defendant said was put onto real property. The Plaintiff removed the lien December 4, 2001, see Exhibit 16. The Plaintiff was on holiday, see envelope 11/25 Exhibit 17. Plaintiff received notice November 25, 2001. The Plaintiff therefore complied with the law as he removed the lien in 9 days where the law stated it has to be removed in 20 days.

The Defendant never enclosed the written signature when Defendant received registered receipt. Look at time sheet of attorneys for the Defendant as they had notice that written receipt had not come back from a call from Defendant Ard. The Plaintiff submits deed of house that Plaintiff's own Exhibit 18. It states without liens or encumbrances. This was a 1st party claim, see letters to Liberty Mutual, Exhibit 11 & 2. Plaintiff put a lien on the proceeds of the settlement not on the real property, Exhibit 14. The Plaintiff did not violate ARS 33-420, it only applies to real property.

Berenter vs Gallahger 173 H275 839 P2D

The Appeals Court held and adjuster securing the insurance proceeds may be entitled to a lien in the proceeds. So john and Jean Apple Baum Insurance law and practice 334 170 (1970). The Appellate Court said on insured partial assignment of insurance proceeds on independant adjuster representing the insured is valid and enforceable. Home Insurance vs. Gigi Fashions Inc. 267R Supp 958 1967 (D.N.5)

The Court $5. An attorney or an adjuster may be entitled to a lien on the proceeds. The court clearly said an adjuster may file a lien on the proceeds and did not distinguish between 1st and 3rd party claims, see Exhibit 5. The Plaintiff's contract was not void abinitio but valid as the Defendant signed the corporation contract, see Exhibit C. The Plaintiff could file a lien in the proceeds and Plaintiff is entitled to $2006 for reasonable services rendered.

The Defendant committed fraud on this Court and wasted the Courts time as the lien was removed in a timely manner. The Plaintiff did nave the right to file this lien pursuant to the signed signature of the Defendant on the contract of the Defendant. A summary judgment can only be granted by the Court when there is no issue of fact to be determined at trial.

EXHIBIT T3

COMPLAINT FILE NOTES

DATE STAMPED: 6/14/01
CMP NAME: State Bar of AZ by Johansen, Francis
ADDRESS:
PHONE # WORK: 252-4802 HOME:

INVESTIGATOR: Alonzo

CARRIER:
ADDRESS:
PHONE:
CONTACT:

TARGET: Irwin Gary Roberts
ADDRESS:
PHONE:

DATE RECEIVED: 6/18/01

COMPLAINT SUMMARY

Francis Johansen, UPL Attorney for the State Bart of AZ, alleges that adjuster Irwin Gary Roberts is purporting himself to be an attorney in the state of Arizona.

ACTION TAKEN:

6/18/01 Received and processed complaint for setup.

Reviewed documentation supplied by Johansen; noted a "Special Power of Attorney" authorized form signed by Roberts's client Patricia Ard. The heading of the form includes license

numbers for both Roberts and his company, Accident Assistance Centers of AZ. There appears to a page missing form the authorization. The complaint also includes a letter from Roberts to Ard, which clearly shows that he was investigating Ard's claim.

6/20/01 Revised 101 letter typed and mailed to Roberts.

6/22/01 Pc from Roberts; states that he did not adjust the claim in question; states that the clt. Contacted him after the accident and wanted him to investigate the party at fault insurance company. States he investigated as requested and submitted a bill to the clt. States that he made no effort to settle the claim. States is gong on vacation and won't be back until 7/15/01. Response deadline extended to 7/20/01.

7/10/01 Received response for Roberts. States did not adjust a 3rd party claim for Ard___attorney advised him that he could use the tittle, Corporate Counsel on his business card.

8/3/01 Pc to insured's carrier USSA 800 633-0942; spoke to Sherry Brust (CSR) states damages losses have been paid to Ard. Medical has not been settled. Left voice mail message for claim handler Julie Woods (USAA) to call ASAP.

Received call from claim handler Julie Woods; states that although she has documentation that Roberts was representing Ard, she has no direct evidence that would establish that Roberts is negotiated the claim. (no demand letter, etc.)

Woods states that she will fax some documentation as soon as possible.

8/10/01 Received more documentation from USAA; No evidence to establish that Roberts negotiated settlement of Ard's claim.

8/22/01 Pc to Roberts; advised Roberts of need to document that he is aware that it is unlawful to adjust 3rd party claims, and that he agrees to change his business card by deleting """"Corporate Counsel".

9/21/01 PC to Roberts; left message for him to call ASAP.

Return call from Roberts; states that he has been for the past few weeks and will get the info to the ADOI by late next week.

10/18/01 PC to Roberts. Message left on Voice mail.

10/23/01 PC from Roberts; states that he disagrees with ADOI's position relative to adjusting third party claims and has filed a suit against the ADOI for hindering his livelihood and can no longer discuss the matter. When asked to provide copies of all third party claims since September of 2000, Roberts refused and indicated he would only comply by subpoena. E-mailed GLM to advise how to proceed.

Received copy of civil suit which is basically a request for Declaratory Relief.

10/29/01

10/31/01 Reviewed Roberts license file and learned that he was initially licensed in 1990; his license expired after four years and he had to re-apply in 95. No other irregularities found in either file.

11/7/2001 File reviewed by AVS. Awaiting response to subpoena for Roberts 3rd party claim files.

11/8/2001 File reviewed by AVS.

Exhibit

The Director's regulatory bulletin which spawned all these complaints from the AZ State Bar and various insurers does not say that a licensed adjuster can or can not adjust 3rd party claims. It merely spells out what an adjuster is and explains that the statute does not address 3rd party claims. The ADOI's only concern would be what the adjuster represented to the client what his authority is under the license. If the adjuster tells the client that he is licensed to adjust those types of losses, that would be misrepresentation. If the fact that the adjuster is licensed becomes a deciding factor to employ the adjuster to handle a 3rd party claim, this may also be a concern of the ADOI. We do not want anyone to believe that they have the protection of a regulator agency should something go awry with the handling of a 3rd party claim when in fact there is no protection as the ADOI does not license adjusters to handle 3rd party claims.

11/23/01 ADOI response to motion for protective order and injunctive relief.

5/13/2002	Received copy of 5-8-02 minute entry dismissing Robert's case against the ADOI. Reviewed file again. Robert's client actually filed a complaint with the state bar alleging that he represented himself as an attorney and told her that if anyone wanted to talk to her about he claim that she should tell them to contact her attorney. There is no allegation that he misrepresented the authority of his adjuster's license permits him to handle 3rd party claims. Case closed.

CLOSING DATE: **5-13-02**

RECOVERY **0**

EXHIBIT C1

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

SENATE BILL 1016

AN ACT

AMENDING SECTION 20-321, ARIZONA REVISED STATUTES; RELATING TO INSURANCE ADJUSTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Mr. Madeksza explained 01st 58 1016 expands the definition of adjuster to mean any person who adjusts, negotiates or Investigates claims arising under an insurance contract, and exempts certain professionals from the definition of adjuster so long so their involvement in the investigation Is technical in nature. Currently the statute refers to adjusters as individuals who investigate and negotiate insurance claims. According to 001, some adjusters attempt to circumvent the intent of the current law by arguing they either investigate or negotiate, but not both, He noted that the bill clarifies that an adjuster either investigates or negotiates or otherwise adjusts insurance settlements. The bill exempts certain professionals who enjoy independent contractor status when providing technical assistance pursuant to a claim. According to DOI, there is no impact to the State's general fund.

Mr. Madeksza explained a Cirillo amendment Is being offered, which adds city and county employees who fulfill adjuster duties on policies held by political

subdivisions in the course of their employment.

Vista Brown, Legislative Liason, DOI, testified in support of SB 1016 and the amendment. She stated that Mr. Madeksza explained the bill and amendment very well. She said DOI brought the bill forward because DOI is experiencing diffeulties in entreement against individuals regarding the "loophole" that was described. She indicated it will be an improvement in the law and assist in DOIs ability to enforce the law.

Senator Cirillo announced the following individuals were present in support of SB 1016: Donald Issacson, Lobbyist, State Farm Insurranee; David Childers, Lobbyist, Farmers Insurance and the National Association of Independent Insurers (NAII); and Gregory Harris, Lobbyist, Progressive Insurance.

Senator Cirillo stated there is no opposition to the bill.

Senator Valsdez stowed SB1016 be returned with a DO PASS recommendation.

Senator Vsladez moved the 6-line Cirillo amendment dated 01/23/02, 2:31 p.m. be ADOPTED (Attachment B). The morion CARRIED by a voice vote.

Senator Valadez moved that SO 1016 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 6-0-0 (Attachment 2),

There being no further business, the meeting adjourned at 1:45 p.na, Respectfully submitted,
Nancy L. DeMichele
Committee Secretary

(Tapes and attachments on File in the Secretary of the Senate's office/Resource Center, Room 115.)

EXHIBIT SC
SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-017209 01/03/2003

CLERK OF THE COURT, P. M. Espinoza Deputy

HONORABLE
MICHAEL D. JONES

FILED: 01/07/2003

IRWIN GARY ROBERTS

V.

IRWIN GARY ROBERTS
5629 S SAILOR REEF RD
TEMPE AZ 85283

PATRICIA ARD

DAVID BRNILOVICH

PEORIA JUSTICE COURT

MINUTE ENTRY

The Court has received and reviewed Appellant's Motion to Dismiss Notice of Appeal. IT IS ORDERED granting Appellant's Notice of Appeal to the Court of Appeals.

Date	Matter of Description	Units
10/29/2001	816-203 / Jennings, Strouss & Salmon Pro Bono - Persons of Limited Mesana Ard - Review documents from State Bar; telephone call with Fran Johansen.	0.80
10/30/2001	816-203/Jennings, Strouss Pro Bono - Persons of Limited Means Ard - telephone call with Doug Dunipace; e-mail Management Committee	0.50
11/6/2001	916/203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Roberts v Ard. Research and analyze Arizona caselaw regarding whether Supreme Court has jurisdiction over non-licensed "attorneys" and whether individuals must involved in a judicial proceeding in order to violate the rules (1.6); review and analyze Rule 11 regarding sanctions (4).	2.00
11/7/2001	816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Robert v. Ard. Meet with client and David Brnilovich at Arrowhead office (1.0); travel to and from Arrowhead office. (1.5).	2.50
11/7/2001	816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Ard - Meeting with client and Becky Covell	1.50

11/8/2001	**816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Prepare letter to client; outline scope of work for Becky Covell; review case law for pretrial motions.**	**2.20**
11/12/2001	**816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Roberts v. Ard. Telephone conference with client regarding documents she received from Better Business Bureau and Peoria Justice Court regarding Robert's claim for dafamation of character and breach of contract and mediation papers regarding mediation of December 13, 2001.**	**.10**
11/16/2001	**816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Ard - review information from client; e-mail instructions to Becky Covell.**	**.20**

EXHIBIT SJH

IN THE PEORIA JUSTICE COURT
MARICOPA COUNTY

ROBERTS,

Plaintiff,

No. CV01-02761RA vs.

Ard,

Defendant

Peoria, Arizona
June 20, 2002

BEFORE JUSTICE LEX ANDERSON

APPEARANCES:

For the Plaintiff:
Irwin Gary Roberts

For the Defendant:
Rebecca Covell

Also Present:
David Granolidge

TRANSCRIPT OF PROCEEDINGS

Peoria, Arizona
June 20. 2002

(Justice Lex Anderson Presiding)

HEARING:

THE COURT: Let me see who's out there. That's fine. Okay. For the record, this is Docket CV 01-02761RA, Irwin Gary Roberts, d.b.a. Accident Assistance Center of Arizona, Inc., Plaintiff, Patricia Ard, Defendant. And let the record reflect there has been - -

MR. ROBERTS: Your Honor, is the being taped?

THE COURT: I'm sorry?

MR. ROBERTS: Is that the tape? I understand you're going to tape it?

THE COURT: I'm sorry.

MR. ROBERTS: I understand I could have a tape put in for— to tape this hearing?

THE COURT: Mr. Roberts, I might end up - -

MR. ROBERTS: I'm just asking.

THE COURT: It's – everything's taped, okay?

MR. ROBERTS: Well, I didn't know it.

THE COURT: Well, everything is taped, okay?

MR. ROBERTS: All right. Thank you.

THE COURT: The record will show (indiscernible) taped. Okay. So let me continue with —

MR. ROBERTS: I'm sorry; I didn't mean to court

at 201 West Jefferson Street, and a copy of the letter was sent to the justice court and defense counsel. Thus, defense counsel had notice again on March 11th, 2002, and the case came back to the justice court.

Then I mailed a certified letter to defense counsel last week (indiscernible) whenever it is that I filed the - - a new motion for a - - for disclosure, and then I asked for oral arguments to be denied.

The defendant in this case deliberately misled the Court into believing that the case had been transferred to Superior Court because the consolidation of the cases resulted in a case exceeding the jurisdictional limits of the Court. That was not true. There was one plaintiff seeking $2,000 in damages, Accident Assistance Centers of Arizona, Inc., and a separate plaintiff, Irwin Gary Roberts, seeking damages of $9,990. There was one common defendant, Patricia Ard, whose counterclaims also did not exceed the jurisdictional limits of the Court.

This Court could have awarded the maximum amount on each claim to each party, and not exceeded the jurisdictional limits of this Court. The defendant knew this but deliberately kept this from the Court.

How could the defendant's counsel deliberately mislead the Court into thinking that it no longer had jurisdiction? The defendant knowingly and willfully

changed the style of the case to make it appear there was one plaintiff, Irwin Gary Roberts, doing business as Accident Assistance Centers of Arizona, Inc., and what legal basis did they have for doing this when there were two separate legal plaintiffs? Absolutely none.

The court needs to inquire as to why they do this. Accident Assistance Centers of Arizona is an Arizona corporation in good standing, has been for approximately 10 years. Why did defendant's counsel do this when this brought to their attention on several - - when this was brought to their attentions on several occasions? Nothing. They deliberately continued to mislead the Court as to the exact legal status of the plaintiffs in this case.

I have some exhibits. Do you want me to approach the bench or just - -

THE COURT: If you have some, sure.

MR. ROBERTS: I'll; have to mail you copies of all of them. I - - okay.

THE COURT: Anything that you're going to give me, then she's going to have to have a copy of.

MR. ROBERTS: Well, I have it but I had - - I did it in such a short time I didn't have - -

THE COURT: No, that's just - - you know, you can't blindside somebody - -

MR. ROBERTS: Well, I'm not trying to blindside her.

She could look at it.

THE COURT: Well, I want you to exchange the exhibits.

MR. ROBERTS: This is a - - this is an Arizona - - this is a - - from the Corporate Commission that I'm a - - that my corporation is good standing. This is from the secretary of state that I don't have a trade name; that means I don't have a d.b.a. These are three documents. There was a case four years ago that Ms. Covell researched and found out. She did an investigation and found out about it, pertaining to Elaine (phonetic).

Then our Exhibit 4, 5 and 6, it shows that I brought it to their attention that there were two separate plaintiffs and one common defendant.

Okay. There is an additional misconduct by the defendant's counsel in this case as well. The defendant's counsel has deliberately failed to communicate this offers of settlement made by the plaintiff to the defendant. Why? Because defendant's counsel main goal in this case is not to represent the defendant but to cause the plaintiff as much grief as possible because they think he is infringing on the area of practice that only lawyers should be involved it.

I've got Exhibit 7, a letter from Ms. Covell to me, and I'll read it out loud to the Court.

MS. COVELL: Your Honor, this is not an evidentiary

hearing. This is an oral argument on summary judgment - -

MR. ROBERTS: Well, this is an oral argument. I have to finish my statement please.

"Dear Mr. Roberts, we are in receipt of your offer of settlement dated December 4, 2001, where you have to split the $2,000 six-figure (indiscernible), resulting in each of you taking $1,003. It would be unethical for us to continue an offer settlement. To do so would put us in the position of aiding and abetting in the unauthorized practice of law."

So she's not interested in a fight. She's interested in - -

(Simultaneous Conversation)

THE COURT: How odes this apply to your motion, Mr. Roberts?

MR. ROBERTS: Pardon me?

THE COURT: How is this relevant to the motion?

MR. ROBERTS: Because let me - - when I finish it's going to - - because I'm asking for sanctions based on - - I have to finish my whole story to see it's relevant.

THE COURT: Okay. Go ahead.

MR. ROBERTS: Okay. Okay. So plaintiff - - okay, the plaintiff, let's go. Okay.

"Defendant's counsel has misled the Court.

limit, so we awaited a determination as to what was gong to happen in this case. We found out the Court was going to allow the plaintiff to drop one of his claims, and when he did that - - that was in April, I believe - - and he then pretty soon after that filed another motion to exclude the use of witnesses and exhibits. We again filed our reply, a response to that motion, and this is where we are with that.

We didn't deliberately misled the Court on anything. We didn't mislead the Court as to the reason the case was transferred to Superior Court. That was our understanding of the reason it was transferred, due to the jurisdictional limits.

The only reason that we hadn't filed a disclosure statement is that the case was bouncing around all over the place. We weren't really sure where it was gong to end up. When we found out it was going to end up here, we again filed our motion, and we got ready to file our motion for summary judgment. The purpose of delaying in the first place was so we could file our motion for summary judgment. Once we found out where the case was going to land, we went ahead with that motion for summary judgment, and we filed it.

We also didn't mislead the Court as to the name of plaintiff's business or his trade name, or anything like that. We were just consolidating the two cases together. One was the plaintiff himself against the defendant, and the

other was his business against the defendant. We just combined the two when the cases got consolidated, and that's how that happened. We weren't trying to mislead anybody about the name of the plaintiff's business.

We're happy to file a disclosure statement, you know. We believe that out motion can dispose of this case, and we won't have to go through gathering all the evidence and witnesses to submit a disclosure statement. But if the Court rules that we need to do that, we will be happy to do that, Your Honor.

THE COURT: Thank you.

All Right. Do you have (indiscernible) rebuttal - -

MR. ROBERTS: Okay. Firstly, I just want to address the issues that they didn't know. They kept on saying that there's two separate plaintiffs, and on each of their pleadings they have Accident Assistance Centers doing business. I think, Your Honor, that apparently he didn't understand it, because the two amounts didn't add up. It didn't exceed the jurisdictional limit.

Now we'll go on. And they duped the Court, in my opinion. Okay. Firstly, the defendant's first count for summary judgment alleges fraud based upon the fact that the plaintiff allegedly told defendant Father, George - -

Rezesnick (phonetic) in a third party claim. He filed the same type of lien and the Superior Court judge, Judge Rogers (phonetic), declared that this type of a lien was invalid, and plaintiff has filed the same type of a lien in this case. This shows contempt for the prior court proceedings and warrants Rule 11 sanctions.

The defendant's final counterclaim pertains to the invalid the lien statute, A.R.S. 33-420. Although plaintiff has denominated basically a contract lien, we believe it operates to cloud title to defendant's real property. If he did not intend for this to affect real property, then why would he file - - why would he record this lien at the County Recorder's Office, the place where liens on real property are recorded.

Plaintiff - - the defendant wrote a letter to the plaintiff on November 7th requesting that the plaintiff remove this lien. He had not removed it within 20 days. Then only after we had appeared in the case did he remove this lien. Therefore, the plaintiff is entitled - - defendant is entitled to damages under the statute.

We believe because the plaintiff did not even file the statement of facts with his response to our motion for summary judgment, under Signer and under Tamsen, this case can be summarily dismissed. These facts that were listed in our statement of facts should be proven as true.

STATE OF ARIZONA)
) ss:
County of Maricopa)

I, Sally L. Cole, do swear and/or affirm that the foregoing is a true and accurate transcript to the best of our ability of proceedings in the matter of ROBERTS v. ARD, heard on June 20, 2002; as recorded on the tape provided to us; before the Court of Justice Lex Anderson.

_____

Sally L. Cole

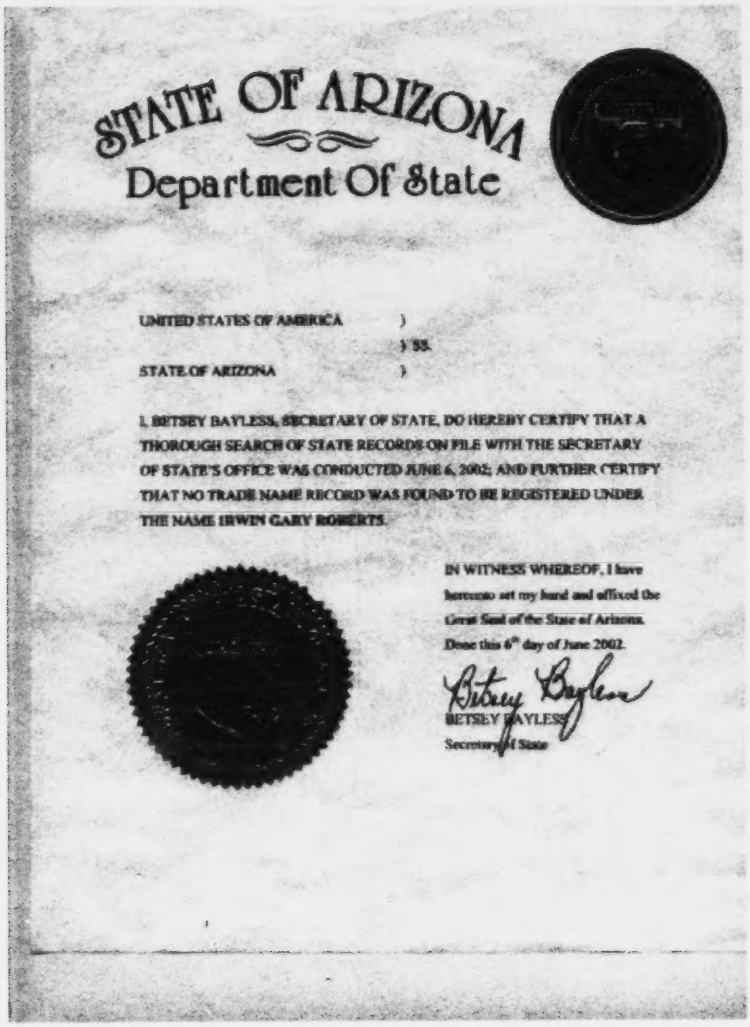
My commission expires:

_____

Karen Samcoe, Notary Public
February 27, 2003

SUBSCRIBED AND SWORN TO before me this _____ day of
_____, 2002.

EXHIBIT SOS



STATE OF ARIZONA
Department Of State

UNITED STATES OF AMERICA)
) SS.
STATE OF ARIZONA)

I, BETSEY BAYLESS, SECRETARY OF STATE, DO HEREBY CERTIFY THAT A THOROUGH SEARCH OF STATE RECORDS ON FILE WITH THE SECRETARY OF STATE'S OFFICE WAS CONDUCTED JUNE 6, 2002; AND FURTHER CERTIFY THAT NO TRADE NAME RECORD WAS FOUND TO BE REGISTERED UNDER THE NAME IRWIN GARY ROBERTS.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done this 6th day of June 2002.

BETSEY BAYLESS
Secretary of State

BEST AVAILABLE COPY

APPENDIX Q

Docket Number_____

In the Supreme Court of the United States

Irwin Gary Roberts,
Petitioner,
v.
Patricia Jeanne Ard,
Respondent

APPENDIX Q
TABLE OF CONTENTS

Exhibit G – Plaintiff's Motion for Rule 11 Sanctions.....page 200
Exhibit A Transcript of Proceedings....page 192
Exhibit Q –Affidavit of Rebecca L. Covell.....page206
Exhibit R – Petition for Order Requiring Judgment Debtor to Appear in Aide of Execution.....page 208
Exhibit X - Motion to Dismiss Appeal for Failure to File.....page 211
Exhibit W – Response to Appellant's Motion for Reconsideration.....page 214
Exhibit T2 – Response to Petition For Order Appellants Requiring Judgment Debtor Appear in Aide of Execution.....page 217
Exhibit J - Letter Written Dec. 1, 2001 offering $2600 total amount of check.....page 219
Exhibit ROL - Notice of Removal of Contract Lien.....pages 222-225
Exhibit APL - Arizona Doesn't Bar Non-Lawyers from Doing Legal Work.....page 229
Exhibit 3 – Complaint File Notes.....page 230
Exhibit 5 & 8.....page 233

EXHIBIT A

IN THE PEORIA JUSTICE COURT
MARICOPA COUNTY, ARIZONA

ROBERTS,		)
		)
	Plaintiff,	No. CV01-02761RA)
		)
vs.		)
		)
ARD,		)
		)
	Defendant.	)
		)

Peoria, Arizona
June 20, 2002

BEFORE JUSTICE LEX ANDERSON

APPEARANCES:
For the Plaintiff:
Irwin Gary Roberts

For the Defendant:
Rebecca Covell

Also Present:
David Granolidge

TRANSCRIPT OF PROCEEDINGS

limit, so we awaited a determination as to what was going to happen in this case. We found out the Court was gong to allow the plaintiff to drop one of this claims, and when he did that - - that was in April, I believe - - and he then pretty soon after that filed another motion to exclude the use of witnesses and exhibits. We again filed our reply, a response to that motion, and this is where we are with that.

We didn't deliberately mislead the Court on anything. We didn't mislead the Court as to the reason the case was transferred to Superior Court. That was our understanding of the reason it was transferred, due to the jurisdictional limits.

The only reason that we hadn't filed a disclosure statement is that the case was bouncing around all over the place. We weren't really sure where it was going to end up. When we found out it was gong to end up here, we again filed our motion, and we got ready to file our motion for summary judgment. The purpose of delaying in the first place was so we could file our motion for summary judgement. Once we found out where the case was going to land, we went ahead with that motion for summary judgment, and we have filed it.

We also didn't mislead the Court as to the name of plaintiff's business or his trade name, or anything like that. We were just consolidating the two cases together. One was the plaintiff himself against the defendant, and the

other was his business against the defendant. We just combined the two when the cases got consolidated, and that's how that happened. We weren't trying to mislead anybody about the name of the plaintiff's business.

We're happy to file a disclosure statement, you know. We believe that our motion can dispose of this case and we won't have to go through gathering all the evidence and witnesses to submit a disclosure statement. But if the Court rules that we need to do that, we will be happy to do that, Your Honor.

THE COURT: Thank you.

All right. Do you have (indiscernible) rebuttal - -

MR ROBERTS: I want a rebuttal.

THE COURT: Go ahead.

MR. ROBERTS: Okay. Firstly, I just want to address the issue that they didn't know. They kept on saying that there's two separate plaintiffs, and on each of their pleadings they have Accident Assistance Centers doing business. I think, Your Honor, that apparently he didn't understand it, because the two amounts didn't add up. It didn't exceed the jurisdictional limit.

Now we'll go on. And they duped the Court, in my opinion. Okay. Firstly, the defendant's first count for summary judgment alleges fraud based upon the fact that the plaintiff allegedly told defendant Father, George - -

a personal injury claim against a third party's insurance carrier. The plaintiff told defendant that he could represent her on her complaint, and he'll get up here and tell you that he told her that he could represent her, that he in fact represented her in a third party claim, and now he is suing to collect her for his fee - - suing her to collect his fees for that representation. Those facts are established, and they are not disputed.

We know, however, that under the Arizona statute relating to public adjusters that plaintiff is not authorized to settle third party claims. We also know from the Utah case and the Arizona cases that I cited in my motion and my reply that third party representation by a public adjuster is considered the unauthorized practice of law.

THE COURT: What case is that?

MS. COVELL: They're in my motion and my reply.

THE COURT: Is that the motion I received today?

MS. COVELL: Yes.

THE COURT: That case was done before - -

MR. ROBERTS: If I could get a chance to offer a rebuttal, or to - -

THE COURT: Let her finish, Mr. Roberts, and then we'll - -

MR. ROBERTS: Okay. I'm sorry. I'm sorry.

THE COURT: - - you'll be next after that. You'll

have the opportunity after.

MS. COVELL: In addition, Your Honor, we received the minute entry in a case that Mr. Roberts filed against the State of Arizona asking for a declaratory judgment that he authorized to represent third party claimants, and the Court through the Honorable Rebecca Albrecht held that insurance adjusters are not authorized to settle and negotiate third party insurance claims.

So for the plaintiff to tell the Defendant he could do that, and for him to actually do that for her was a fraud. He defrauded her into believing that he could represent her on a third party claim. And we know from the statutes and the case law that he can't do that.

Under the Consumer Fraud Act, he misrepresented his ability to settle this claim for her in connection with the sale of his services. Ms. Ard relied on that misrepresentation when she hired him, and as a result she was injured by his fraudulent representations.

It doesn't matter what he told her, it doesn't matter what he told her father, the fact is he represented to her that he could settle third party claims, and he actually did do that for her. This is fraudulent.

In addition, this alleged contract that they entered into is avoidable because it was procured by fraud, and Ms. Ard took the necessary steps to avoid the contract.

When she found out that he was not authorized to settle third party claims she fired him immediately, and she notified the Bar and the Department of Insurance that he had been engaging in this type of practice.

The contract is also void ab initio. It required plaintiff to engage in the unauthorized practice of law, and to violate the terms of his license as a pubic adjuster. The contract could not be performed without violating applicable law, and therefore it is illegal and void, meaning it had no legal force or effect from the very beginning. Therefore plaintiff cannot seek fees under a contract that does not exist.

The defendant is also seeking damages for slander, per se. Plaintiff admits that he published a slanderous statement about the defendant to Julie Woods, at USAA. Under the McClinton (phonetic) case, once the subject matter is determined to be slanderous per se, the only evidence the claimant must offer is that the subject matter was communicated, because falsity, malice, and special damages are presumed.

Statements accusing a person of committing a crime are slanderous per se, and the plaintiff accused Ms. Ard of committing extortion, and extortion is a crime under A.R.S. 13-1804.

The plaintiff stated in his response to our motion

Rezesnick (phonetic) in a third party claim. He filed the same type of lien and the Superior Court judge, Judge Rogers (phonetic), declared that this type of a lien was invalid, and the plaintiff has filed the same type of a lien in this case. This shows contempt for the prior court proceedings and warrants Rule 11 sanctions.

The defendant's final counterclaim pertains to the invalid the lien statute, A.R.S. 33-420. Although plaintiff has denominated basically a contract lien, we believe it operates to cloud title to defendant" real property. If he did not intend for this to affect real property, then why would he file — why would he record this lien at the County Recorder's Office, the place where liens on real property are recorded.

Plaintiff - - the defendant wrote a letter to the plaintiff on November 7th requesting that the plaintiff remove this lien. He had not removed it within 20 days. Then only after we had appeared in the case did he move this lien. Therefore, the plaintiff is entitled – defendant is entitled to damages under the statute. We believe because the plaintiff did not even file the statement of facts with his response to our motion for summary judgment, under Signer and under Tamsen, this case can be summarily dismissed. These facts that were listed in our statement of facts should be proven to be true.

STATE OF ARIZONA 41

)
) ss:
County of Maricopa)

I, Sally L. Cole, do swear and/or affirm that the foregoing is true and accurate transcript to the best of our ability of proceedings in the matter of ROBERTS v. ARD, heard on June 20, 2002; as recorded on the tape provided to us; before the Court of Justice Lex Anderson.

Sally L. Cole

My commission expires:

Karen Samcoe, Notary Public

February 27, 2003

SUBSCRIBED AND SWORN TO before me this 15th day of July, 2002.

EXHIBIT G
PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 84381 979-3234
Case No. CV01-02761RA

Plaintiff: Accident Assistance Center of
AZ, INC, an Arizona Corp.
IRWIN GARY ROBERTS
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020
Counter Defendant

CV-2002-017209

Defendant: Patricia Ard
11768 W. Larkspur Dr.
El Mirage, AZ 85335

PLAINTIFF'S MOTION FOR RULE 11 SANCTIONS
ORAL ARGUMENT REQUESTED

Plaintiffs, Accident Assistance Center of AZ, Inc. and Irwin Gary Roberts, Court Defendant, hereby request that Rule 11 Sanctions be imposed on the defendant and her counsel for their misconduct in this case and as grounds there allege:

STATEMENT OF FACTS

This action was commenced when Accident Assistance Center of Arizona, Inc. filed a small claims action against Patricia Ard. Patricia Ard, had settled a previous accident claim on her own behalf, but she had been unable to find the party who ran into her in a subsequent accident to see if he had insurance so she could collect from her own insurance company on her uninsured motorist coverage. Her father told her about the plaintiff. The first time the defendant met with

the plaintiff, she refused the Plaintiff's services because she did not want to pay $125.00 per hour for the investigation required to be done by the plaintiff to initiate the first party claim She finally retained Accident Assistance Center of Arizona, Inc. to do an investigation to find the party who hit her in this newest accident so she could proceed with her first party claim against her own insurance company. She signed a contract with Accident Assistance Center, Inc. agreeing to pay $125.00 an hour for investigation time because she was unable to get this information after weeks of trying herself. Thereafter, the plaintiff set out to get the information so that first party claim could be processed.

Accident Assistance Center of Arizona, Inc. spent approximately sixteen hours investigating and was finally able to locate the party who had injured the defendant in this most recent accident. Accident Assistance Center of Arizona, Inc. filed notices with the defendant's own insurance carrier putting them on notice as to the first party claim. Subsequently, the plaintiff also found out that there was third party coverage and that the defendant did not have any uninsured motorist coverage. When the plaintiff told the defendant how much time and money had been expended in finding the party and subsequently discovering that there was third party coverage, Patricia Ard said she would not pay that amount she agreed to pay the plaintiff to investigate the first party claim. She further told that plaintiff that if the plaintiff did not agree to waive this investigation fee she would fire the plaintiff and cause the plaintiff a lot of trouble by telling everyone that he said he was a lawyer.

The Plaintiff refused to waive this fee because the plaintiff has done this work on the first party claim at the defendant's request and pursuant to the contract signed by the defendant. The plaintiff was lawfully permitted to do this investigation and receive a fee for doing so under A.R.S. 32-401 and 20-

321. Even Judge Albrecht in her minute entry stated the plaintiff was authorized to do first party claims. As a result of the plaintiff's refusal to waive its investigation fee, the defendant fired the plaintiff and wrote letters to everyone she could wrongfully accusing him of lying to her and deliberately trying to damage his personal and business reputation. Thereafter, the plaintiff, Irwin Gary Roberts, not Accident Assistance Center of Arizona, Inc., sued Patricia Ard individually for defamation in the civil division of the Justice Court because the defendant deliberately lied about what he had said in a effort to forgo a fee that Accident Assistance center of Arizona, Inc. was legally entitled to receive and that the defendant had contractually agreed to pay. These were two separate cases with two separate plaintiffs in two separate divisions of the Justice Court with one common defendant.

The defendant then moved to consolidate the two cases because although there were two separate plaintiffs, there was one common defendant and some common facts in both cases. In an effort to speed this matter along, both Accident Assistance Center of Arizona, Inc. and Irwin Gary Roberts, the two separate plaintiffs agreed to the consolidation. It was at this time that the defendant's counsel deliberately changed the style of the case without any valid or legal reason for doing so which mislead the court into believing that there was only one plaintiff and because the value of the two separate claims combined exceed $10,000, the Court no longer had jurisdiction of the case. The defendant's counsel did this by changing the style of the case to read "Irwin Gary Roberts dba Accident Assistance Center of Arizona, Inc." This deliberate act by counsel for the defendant caused this case to be wrongfully transferred to Superior Court thus delaying the resolution of this case. At the summary judgment hearing, the defendant's counsel could not only give no valid legal basis for changing the plaintiffs' style of the case, she could not

give any other valid reason for doing this either. This misstatement of the correct plaintiffs was repeatedly brought to the attention of the defendant's counsel, but they continued to perpetrate this fraud on the court and on the plaintiff. There can be no other reasonable conclusion drawn but that this was done in bad faith and therefore subject to the sanctions of Rule 11.

The defendant also committed other Rule 11 Violations in this case for the sole purpose of harassing the plaintiffs and misleading the court. The defendant has alleged in her pleadings that the plaintiff has committed the "unauthorized practice of law" when in fact there is no "unauthorized practice of law" statute in Arizona. This allegation was made without foundation merely to harass the plaintiff. Even the Attorney General admitted there is no unauthorized practice of law statute in Arizona that would prohibit the plaintiff individually from doing third party claims.

The defendant's counsel filed a claim against the plaintiff for allegedly filing a lien against her real property. The lien clearly says that it is a lien only against the proceeds of any insurance settlement. There is no legal description in the lien. This is just another example of the defendant's counsel misleading the court in an effort to harass the plaintiff.

Additionally, the plaintiff misrepresented the investigation the plaintiff did for the defendant in this case. The plaintiff had the right under law to investigate to gather the necessary information needed to file a first party claim, which is what he did in this case. The defendant's counsel kept deliberately misleading the court by stating that the plaintiff's claim in this matter is for investigating a third party claim.

MEMORANDUM IN SUPPORT OF MOTION FOR RULE 11 SANCTIONS

Rule 11 requires every person filing a pleading to make a reasonable investigation to determine that the pleading is filed in good faith, not for the purposes of delay, harassment or to drive up the costs of litigation. The pleadings filed by the defendant's counsel as outlined above clearly violated these provisions of Rule 11. If an honest mistake is made, a party would correct it as soon as possible. The plaintiff in this case notified the defendant's counsel about the correct legal status of the plaintiffs, but the defendant's counsel deliberately failed to correct it even though defendant's counsel knew it was wrong. This shows clear intent of a deliberate violation of Rule 11.

All of the other actions of misconduct as stated above are also evidence of deliberate and calculated pattern of misconduct in a manner to harass and intimidate the plaintiff as well. This pattern of deliberate misconduct is clear proof of the Rule 11 violations. The transcript of the defendant's counsel comments at the motion for summary judgment proving this misconduct has been ordered by the plaintiff and will be furnished to the court as soon as it is transcribed from the court tape which the court also has a copy of .

WHEREFORE, the plaintiff respectfully requests that this court send a clear message to the defendant and her counsel that this kind of unethical conduct will not be tolerated by this court. Appropriate sanctions should be significant fines, reimbursement to the plaintiff of all time and expenses attributed to this misconduct and striking of the defendant's pleadings.

Dated: June 25, 2002

Irwin Gary Roberts

Copy mailed to defendant's Attorney on June 25, 2002.

Rebecca L. Covell
Jennings, Stross & Salmon, P.L.C.
201 E. Washington Street 11th Floor
Phoenix, AZ 85004-2385

Irwin Gary Roberts

EXHIBIT Q

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
MinuteEntires@jsslaw.com

Attorneys for Defendant Patricia Ard

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba ACCIDENT ASSISTANCE CENTER OFAZ, INC.,
Plaintiff/ Judgment Debtor,

vs.

PATRICIA ARD,
Defendant/ Judgment Creditor.

AFFIDAVIT OF REBECCA L. COVELL
No. TJ 2002-005374

STATE OF ARIZONA)
) ss.
County of Maricopa)

REBECCA L. COVELL, being first duly sworn, deposes and says:

That she is the attorney of record for Defendant/ Judgment Creditor, Patricia Ard and is authorized to institute these proceedings.

That on or about August 12, 2002, Defendant/ Judgment Creditor recorded judgment in the above-referenced action and that judgment has not been reversed, vacated or set aside and there is presently an unpaid balance due of $15,041.00, plus interest.

That upon information and belief the Plaintiff/ Judgment Debtor, Irwin Gary

Roberts, has non-exempt property which he unjustly refuses to disclose and apply toward satisfaction of the judgment.

Rebecca L. Covell, Affiant

SUBSCRIBED and SWORN TO before me this 16th day of January, 2003.

My Commission Expires:
Notary Public

ORIGINAL of the foregoing was filed with the Clerk of the Court and a COPY of the foregoing was mailed this 16th day of January, 2003 to:

Irwin Gary Roberts
5629 S. Sailor Reef Road
Tempe, Arizona 85283
Plaintiff/Judgment Debtors

EXHIBIT R

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
MinuteEntires@jsslaw.com

Attorneys for Defendant Patricia Ard

IN THE SUPERIOR COURT
OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba ACCIDENT ASSISTANCE CENTER OF AZ, INC., Plaintiff/ Judgement Debtor,	No. TJ 2002-005374
vs. PATRICIA ARD, Defendant/ Judgment Creditor.	**PETITION FOR ORDER REQUIRING JUDGMENT DEBTOR TO APPEAR IN AIDE OF EXECUTION**

STATE OF ARIZONA)
) ss.
County of Maricopa)

Defendant/Judgment Creditor, Patricia Ard, by and through her attorneys undersigned, and pursuant to A.R.S. § 12-1631, et seq., respectfully petitions the Court as follows.

The undersigned is the attorney for the Defendant/Judgment Creditor and being first duly authorized makes this Petition for and on behalf of said Defendant/Judgment Creditor.

On August 12, 2002, a judgment was entered in favor of the Defendant/Judgment Creditor and against the Plaintiff/Judgment Debtor, Irwin Gary Roberts, said judgment being in the amount of $17,047 together with interest thereon at the maximum legal rate, accruing from the date of judgment until paid. The judgment has not been reversed, vacated or set aside. Other than the insurance company's re-issuance of a check to Defendant/Judgment Creditor in the amount of $2,006, no payments have been made thereon. Therefore a balance of $15,041 plus interest at the rate of ten percent (10%) per annum remains due and owing.

Petitioner is informed and believes that Plaintiff/ Judgment Debtor has non-exempt property which can be applied toward satisfaction of the judgment.

WHEREFORE, Petitioner prays for Orders asfollows: That the Plaintiff/Judgment Debtor be ordered to appear before this court on the

day certain and answer, under oath, questions concerning property of the Plaintiff/Judgment Debtor which may be the subject to execution and for further answer concerning their failure to apply such property to satisfy the judgment

That the Plaintiff/Judgment Debtor be required to produce for examination at the time and place fixed by the Court all of their books and records as set forth in said Order.

That proper proceedings thereon be had for the application of the property of the Plaintiff/Judgment Debtor until satisfaction of the judgment as provided upon return of a Writ of Execution.

DATED this 16th day of January, 2003.

JENNINGS, STROUSS & SALMON, P.L.C.

By
David Brnilovich
Rebecca L. Covell
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Attorneys for Defendant Patricia Ard

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before by Rebecca L. Covell this 16th day of January, 2003.

Teresa Taylor
Notary Public
My Commission Expires:
July 7 2006

EXHIBIT X

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911

Attorneys for Defendant/Counterclaimant/
Appellee Patricia Ard

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, a single individual; ACCIDENT ASSISTANCE CENTER OF AZ, INC., an Arizona corporation,	No. CV2002-017209
Plaintiffs/Counterdefendants/ Appellants,	**MOTION TO DISMISS APPEAL FOR FAILURE TO FILE APPELLANT'S MEMORANDUM**
vs. PATRICIA ARD	
Defendant/Counterclaimant/ Appellee.	

Appellee Patricia Ard hereby moves this Court for dismissal of this appeal because Appellants Irwin Gary Roberts and Accident Assistance Center of AZ, Inc. have failed to file their Appellate Memorandum.

Rule 15(a) of the Superior Court Rules of Civil Appellate Procedure requires Appellants to file their Memorandum within thirty days after filing the notice of appeal. *See* 17B A.R.S. Super. Ct. Civil Appellate Proc. Rules. Appellants filed their notice of appeal on August 16, 2002. [Exhibit A]. Thus, Appellants' Memorandum was due on September 16, 2002. No Memorandum has yet been filed.

Appellants' failure to timely file their Memorandum is grounds for dismissal of the appeal. *See* 17B A.R.S. Super. Ct. Civil Appellate Proc. Rules, Rule 15(c). Accordingly, Appellees respectfully request that this Court dismiss this appeal pursuant to Rule 15(c).

RESPECTFULLY SUBMITTED this 9th day of October, 2002/
JENNINGS, STROUSS & SALMON, P.L.C.

By
David Brnilovich
Rebecca L. Covell
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Attorneys for
Defendant/Counterclaimant/Appellee Ard
Copy of the foregoing hand-delivered on
this 9th day of October, 2002, to:

Michael D. Jones
Maricopa County Superior Court
Center Court Building - 10A
Phoenix, Arizona

Copy of the foregoing mailed on this
9th day of October, 2002, to:

Irwin Gary Roberts
ACCIDENT ASSISTANCE CENTERS
OF AZ, INC.
5629 S. Sailor's Reef Rd.
Tempe, AZ 85283

By

EXHIBIT W

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
Attorneys for Defendant/Counterclaimant/
Appellee Patricia Ard

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba ACCIDENT ASSISTANCE CENTER OF AZ, INC.,	No. CV2002-017209
Plaintiffs/Counterdefendants/ Appellants,	**RESPONSE TO APPELLANT'S MOTION FOR RECONSIDERATION**
vs. PATRICIA ARD, Defendant/Counterclaimant/ Appellee.	

Appellee Patrica Ard ("Patricia Ard") hereby responds to Appellants Irwin Gary Roberts and Accident Assistance Center of AZ, Inc.'s ("Appellants") Motion for Reconsideration of the Court's ruling, wherein the Court dismissed the appeal due to Appellants' failure to file their Appellate Memorandum.

Appellants have raised no new issues of fact or law with regard to the prior court's ruling. Any and all

substantive and/or procedural issues in this case were raised in the lower court, and summary judgment was granted in favor of Patricia Ard. Once the case was transferred to this Court, Appellants failed to file their Appellate Memorandum, as required by Rule 13(a) of the Arizona Superior Court Rules of Civil Appellate Procedure. They admit that they filed to comply with the Rules. This Court correctly determined that such failure warranted dismissal of the appeal under Rule 15(a), Arizona Superior Court
Rules of Civil Appellate Procedure. Appellants have raised no new issues of fact or law in this matter, let alone facts or law that justify reconsideration of the Court's prior minute entry granting Patricia Ard's Motion to Dismiss the Appeal.

Therefore, Patricia Ard respectfully requests that this Court deny Appellants' Motion for Reconsideration, and affirm its prior ruling dismissing the appeal of this matter.

RESPECTFULLY SUBMITTED this 27th day of November, 2002.

JENNINGS, STROUSS & SALMON, P.L.C.

By
David Brnilovich
Rebecca L. Covell
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Attorneys for
Defendant/Counterclaimant/Appellee Ard

Copy of the foregoing hand-delivered on
this 27th day of November, 2002, to:

Hon. Michael D. Jones
Maricopa County Superior Court
Center Court Building - 10A
Phoenix Arizona

Copy of the foregoing mailed on this 27th day
of November, 2002, to:

Irwin Gary Roberts
ACCIDENT ASSISTANCE CENTERS
OF AZ, INC.
5629 S. Sailor's Reef Rd.
Tempe, AZ 85283

By

EXHIBIT T2

Irwin Gary Roberts, Pro Per
5629 S. Sailors Reef Rd.
Tempe, AZ 85283

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

Irwin Gary Roberts, a single man,
Accident Assistance Centers of Az., Inc.
CIV-TJ2002-005374
The Honorable Jeffery Woodburn
An Arizona Corporation
Plaintiff Counter Defendants,

Response to Petition For Order Requiring Judgment Debtor To Appear In Aide Of Execution

Appellants
Judgment Debtor

VS.
Patricia Ard, Defendant, Counter Claimant
Appellee, Judgment Creditor

Plaintiff states the heading of defense counsel is wrong and as they corrected it to the Court Of Appeals. The correct heading is the correct one as stated above, therefore, the corporation would be responsible for this debt.

The defendant admits in their motion that they received $2,006 from an insurance company wh8ich is U.S.A.A., therefore the Plaintiff owes the defendant only $13,035 as the defendant can't be paid twice. The defendants attorneys are officers of the court and should correct the heading and the

monies due otherwise Plaintiff will have to bring a Rule 60 Motion or on his Petition of Review To The Supreme Court it will be straightened out, or The Federal Courts will straighten it out. The Plaintiff submits his affidavit under oath and asks for a stay of the proceeding of Enforcement Judgment.

Respectfully Submitted,

Irwin Gary Roberts

ORIGINAL of the foregoing was filed
with the Clerk of the Court and a Copy on January 23, 2003
of the foregoing was mailed on January 24, 2003 to
David Bmilovich
Rebecca L. Covell
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
And a copy hand delivered to Judge Jeffery Woodburn at the
Superior Court of Arizona,
Maricopa County, Phoenix, Arizona January 23, 2003

Irwin Gary Roberts

January 23, 2003

Copy hand delivered Old Court House
Washington Street Rm 24

Copy Patricia Ard
11768 W. Larkspur Dr.
El Mirage, AZ 8533

EXHIBIT J

Letter written December 1, 2001
offering $2,006 total amount of CHECK. Defense counselor told justice court in pleadings they never received the letter.

Dear Ms. Covell:
Needless to say I am quite shocked at the contents of your letter dated December 5, 2001. Surely you must have told Patricia Ard before you agreed to represent her that you could not settle her case for her because to do so would be unethical. I'm sure Patricia Ard would gladly take $2,000 right now to settler her case, but according to your letter, you could not settle the case for that. It has always been my understanding that a lawyer should act in their client's best interest or they should withdraw. If you have no authority to settler her case for her because it is unethical, how can that be acting in your client's best interest not to accept and offer that is 99.9% of the claim? You would have to be the first lawyer in history that could not accept such an offer.

If it remains your position that you cannot settler her case for her, then I think it was incumbent upon you to inform her of that from the start. Surely no ethical attorney would take a case without advising their client that they could not accept a 99.9% settlement offer due to ethical constraints. I think that any attorney who could not accept an offer of settlement for their client that was 99.9% of the amount in controversy would in all likelihood be guilty of malpractice.

I'm sure that you have shown Ms. Ard the current Arizona statute dealing with their unauthorized practice of law. I'm sure she would lie to see a copy of it so she can see what legal authority you are relying on. Just in case you are unable to find the statute because it doesn't exist, maybe you can show her a case that has been decided within the last ten years in

Arizona that specifically holds that my representing her in an attempt to settler her case is the unauthorized practice of law. Surely you are basing you legal decision in this case on either statutory or case law. If you will send me a copy of the current unauthorized practice of law statute that is in effect and a current case that supports your position that my representing her is the unauthorized practice of law, I will give her the entire $2,003.oo and drop any and all claims I have against her. She of course would have to drop any claims she has against me as well and this matter come to and end.

In the previous trial court case you cited that I was involved in, did you tell Ms. Ard that the court held that I could sue on my contract for my fee? The court did not hold that I was practicing law without a license. It was only the lien that was not upheld. And did you tell her that that case settled and I got a lot of my fee out it?

Is it possible that you have some hidden agenda other then securing the vest settlement that you can for your client as a lawyer is also ethically obligated to do? At this point in time that appears to be the case. You have the opportunity to get the entire $2,003.oo for your client. All you have to do is prove your position buy citing current statutory and case law. If you can't do that to secure a 100% settlement for your client then something is terribly wrong isn't it? How sound can your legal position be? Maybe you should tell your client what your real agenda is in representing her in this matter.
For centuries lawyers have told their clients how much they could get them out of their case just to get them signed up, yet I am unaware of any case where the lawyer has promised his or client that they would pay the difference out of their pocket if they didn't get as much as they said they could for their client's best interest and I intend to take it to them. It will be interesting to see how you defend your position to the public.

Do think the pubic will actually believe that a lawyer should not settle a case for 99.9% of the amount in controversy because an alleged ethical consideration for which there is no statutory or case law to back that position? The truth will have to come out and I don't think it will case you in a good light.

I made a fair offer to your client. You are the one who wants to escalate it. If that's what you really want, then I will oblige you. It's your call

Respectfully submitted,

Gary Roberts
5629 S. Sailor's Reef Rd.
Tempe, Arizona 85283
December 7, 2001
Faxed to 602-253-3255
and mailed to
Rebecca Covell
Jennings, Strouss, & Salmon
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385

EXHIBIT ROL

When recorded mail to:
Gary Roberts
5609 S. Smith Rd
Tempe AZ 85283

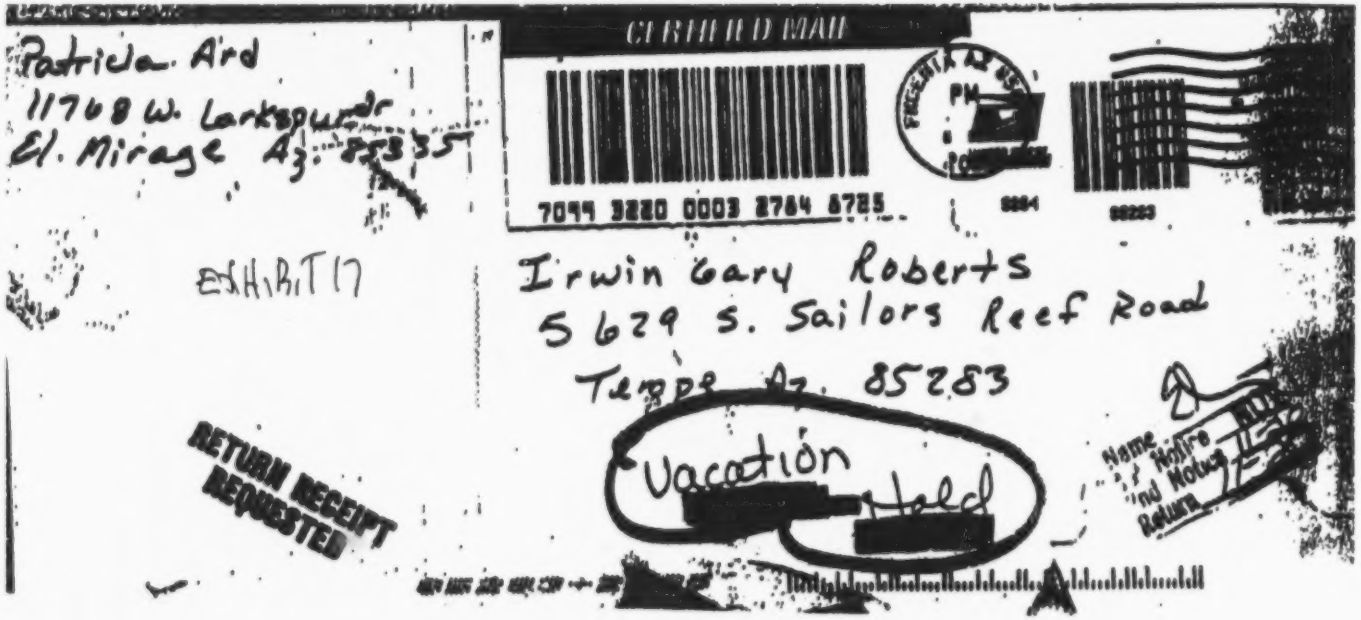
OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2001-1141741 12/04/01 13:58
1 OF 1

CAPTION HEADING: _____

DO NOT REMOVE

This [illegible]

MARICOPA COUNTY
1871
ARIZONA


CERTIFIED MAIL
7099 3220 0003 2764 8785
Patricia Aird
11768 W. Larkspur Dr.
El Mirage Az. 85335
EXHIBIT 17
Irwin Gary Roberts
5629 S. Sailors Reef Road
Tempe Az. 85283
Vacation Hold
RETURN RECEIPT REQUESTED

The Defendant Ard waisted the Courts time as to the issue of an invalid lien that Defendant said was put onto real property. The Plaintiff removed the lien December 4, 2001, see Exhibit 16. The Plaintiff was on holiday, see envelope 11/25 Exhibit 17. Plaintiff received notice November 25, 2001. The Plaintiff therefore complied with the law as he removed the lien in 9 days where the law stated it has to be removed in 20 days.

The Defendant never enclosed the written signature when Defendant received registered receipt. Look at time sheet of attorneys for the Defendant as they had notice that written receipt had not come back from a call from Defendant Ard. The Plaintiff submits deed of house that Plaintiff's own Exhibit 18. It states without liens or encumbrances. This was a 1st party claim, see letters to Liberty Mutual, Exhibit 11 & 2. Plaintiff put a lien on the proceeds of the settlement not on the real property, Exhibit 14. The Plaintiff did not violate ARS 33-420, it only applies to real property.

Berenter vs Gallahger 173 H275 839 P2D

The Appeals Court held and adjuster securing the insurance proceeds may be entitled to a lien in the proceeds. So john and Jean Apple Baum Insurance law and practice 334 170 (1970). The Appellate Court said on insured partial assignment of insurance proceeds on independent adjuster representing the insured is valid and enforceable. Home Insurance vs. Gigi Fashions Inc. 267R Supp 958 1967 (D.N.5)

The Court $5. An attorney or an adjuster may be entitled to a lien on the proceeds. The court clearly said an adjuster may file a lien on the proceeds and did not distinguish between 1st and 3rd party claims, see Exhibit 5. The Plaintiff's contract was not void abinitio but valid as the Defendant signed the corporation contract, see Exhibit C. The Plaintiff could file a lien in the proceeds and Plaintiff is entitled to $2006 for reasonable services rendered.

The Defendant committed fraud on this Court and waisted the Courts time as the lien was removed in a timely manner. The Plaintiff did nave the right to file this lien pursuant to the signed signature of the Defendant on the contract of the Defendant. A summary judgment can only be granted by the Court when there is no issue of fact to be determined at trial.

Maricopa County Recorder
2001-014399 - 2/25/2001

NOTICE OF REMOVAL OF CONTRACT LIEN

My client Patricia Jeanne Ard
Address of Client- 11768 W. Larkspur, El Mirage, AZ 85335
Date of Signing this Contract 1/24/2001
Date of Loss 1/16/2001
Amount Due $2,006 - 16 hours at $125 per hour
plus Police Report $6.00
The removal of this lien does not prelude Irwin Gary Roberts from suing Patricia Jeanne Ard in a Civil Court or prejudice Irwin Gary Roberts in any court proceedings currently in progress.
I, Irwin Gary Roberts am the claimant who filed this lien and wish to remove the lien as of December 4, 2001.

Respectfully Yours,

Irwin Gary Roberts
5629 S. Sailors Reef Rd.
Tempe, AZ 85283

U.S.A.A. claim # 78851
Adjuster _____
P.O. Box 35718, Colorado Springs
Colorado, 80935-37

RECORD AS IS

19991163721

ACCEPTANCE OF COMMUNITY PROPERTY WITH RIGHT TO SURVIVORSHIP

ESCROW NO. 209-908-1245682

/LEE JR. /JEANNE JERRY ARD, and PATRICIA ARD, husband and wife, each for himself or herself and jointly, but not one for the other, state that the undersigned have offered to purchase the real property situate in Maricopa County described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

That each of the undersigned individually and jointly as such Grantees hereby declare that it is their intention to accept such conveyance as community property with right of survivorship and not as joint tenants with right of survivorship and not as tenants in common, and to acquire any interest in said real property under said deed as community property with right of survivorship, and not as joint tenants with right to survivorship and not as tenants in common.

That by the execution and delivery to the Escrow Agent of this "Acceptance of Community Property with Right of Survivorship" the undersigned intend to evidence their acceptance of said deed as community property with right of survivorship, and hereby direct and authorize the Escrow Agent to attach this "Acceptance of Community Property with Right of Survivorship" to such deed upon its execution and delivery and to record this "Acceptance of Community Property with Right of Survivorship" together with such deed.

Dated: December 17, 1999

JERRY ARD, JR.
LEE

PATRICIA ARD
/JEANNE

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged and executed before me this 29th day of Dec. 1999 by
/LEE
JERRY ARD JR. and PATRICIA ARD
/JEANNE

My Commission Expires:

Notary Public

EXHIBIT APL
ARIZONA DOESN'T BAR NON-LAWYERS FROM DOING LEGAL WORK

Arizona has had no statutes forbidding the unauthorized practice of law since 1984, when the one it had was automatically repealed by the legislature.

This means that non-lawyers probably cannot be prevented from doing much of the legal work in this state – work that before could have been done only by lawyers.

Unauthorized-practice statutes are the means by which many trades and professions protect their monopolies, doctors, dentists, barbers, cosmetologists and the members of a few dozen other occupational groups legally exclude unlicensed people from offering the services they provide.

If you cut your own child's hair, for example, you can be prosecuted for engaging in the unauthorized practice of barbering.

But for now, at least, it appears that non-lawyers who provide legal services to others cannot be punished.

Courts, of course, have independent authority to determine who may practice in them. And they continue to exclude those who do not have licenses to practice law – except individuals representing themselves, a right citizens always have had.

A considerable volume of legal work, however, does not require court involvement. It even is possible for people to obtain non-lawyer assistance in drafting court documents for the purpose of representing themselves in the courts.

Many Americans cannot or will not pay the cost of lawyers services. Often, they are too expensive.

Lawyers contend, with some justification, that their training and experience enable them to provide better service than non-lawyers.

But that misses the point. What lawyers are saying is that the public must choose between first-class service and no service at all.

Exhibit 3

COMPLAINT FILE NOTES

D. - Diary File To Msg - Phone Message
110 - 3rd Party Closing
Cmp. - Complaint PC. - Phone Call
115 - 1st Party Closing
Co. - Company 101 - Opening Ltr to Com
116 - Status Letter Cmp
Agy. - Agency 106 - Opening Ltr to Cmp
117 - More Info Needed
LS. - Letter sent 108 - Satisfactory Close
113 - 3rd Party Closing

DATE STAMPED: 6/14/01
CMP NAME: State Bar of AZ by Johansen, Francis
ADDRESS:
PHONE # WORK: 252-4802 HOME:

INVESTIGATOR: Alonzo

CARRIER:
ADDRESS:
PHONE:
CONTACT:

TARGET: Irwin Gary Roberts
ADDRESS:
PHONE:

DATE RECEIVED: 6/18/01

COMPLAINT SUMMARY

Francis Johansen, UPL Attorney for the State Bart of AZ, alleges that adjuster Irwin Gary Roberts is purporting himself to be an attorney in the state of Arizona.

ACTION TAKEN:

6/18/01 Received and processed complaint for setup.

Reviewed documentation supplied by Johansen; noted a "Special Power of Attorney" authorized form signed by Roberts's client Patricia Ard. The heading of the form includes license numbers for both Roberts and his company, Accident Assistance Centers of AZ. There appears to a page missing form the authorization. The complaint also includes a letter from Roberts to Ard, which clearly shows that he was investigating Ard's claim.

6/20/01 Revised 101 letter typed and mailed to Roberts.

6/22/01 Pc from Roberts; states that he did not adjust the claim in question; states that the clt. Contacted him after the accident and wanted him to investigate the party at fault insurance company. States he investigated as requested and submitted a bill to the clt. States that he made no effort to settle the claim. States is gong on vacation and won't be back until 7/15/01. Response deadline extended to 7/20/01.

7/10/01 Received response for Roberts. States did not adjust a 3rd party claim for Ard___attorney advised him that he could use the title, Corporate Counsel on his business card.

8/3/01 Pc to insured's carrier USSA 800 633-0942; spoke to Sherry Brust (CSR) states damages losses have been paid to Ard. Medical has not been settled. Left voice mail message for claim handler Julie Woods (USAA) to call ASAP.
Received call from claim handler Julie Woods; states that although she has documentation that Roberts was representing Ard, she has no direct evidence that would establish that Roberts is negotiated the claim. (no demand letter, etc.) Woods states that she will fax some documentation as soon as possible.

8/10/01 Received more documentation from USAA; No evidence to establish that Roberts negotiated settlement of Ard's claim.

8/22/01 Pc to Roberts; advised Roberts of need to document that he is aware that it is unlawful to adjust 3rd party claims, and that he agrees to change his business card by deleting "Corporate Counsel".

9/21/01 PC to Roberts; left message for him to call ASAP.

Return call from Roberts; states that he has been for the past few weeks and will get the info to the ADOI by late next week.

10/18/01 PC to Roberts. Message left on Voice mail.

10/23/01 PC from Roberts; states that he disagrees with ADOI's position relative to adjusting third party claims and has filed a suit against the ADOI for hindering his livelihood and can no longer discuss the matter. When asked to provide copies of all third party claims since September of 2000, Roberts

refused and indicated he would only comply by subpoena. E-mailed GLM to advise how to proceed.

Received copy of civil suit which is basically a request for Declaratory Relief.

10/29/01

10/31/01 Reviewed Roberts license file and learned that he was initially licensed in 1990; his license expired after four years and he had to re-apply in 95. No other irregularities found in either file.

11/7/2001 File reviewed by AVS. Awaiting response to subpoena for Roberts 3rd party claim files.

11/8/2001 File reviewed by AVS.

Exhibit 5 & 8

The Director's regulatory bulletin which spawned all these complaints from the AZ State Bar and various insurers does not say that a licensed adjuster can or can not adjust 3rd party claims. It merely spells out what an adjuster is and explains that the statute does not address 3rd party claims. The ADOI's only concern would be what the adjuster represented to the client what his authority is under the license. If the adjuster tells the client that he is licensed to adjust those types of losses, that would be misrepresentation. If the fact that the adjuster is licensed becomes a deciding factor to employ the adjuster to handle a 3rd party claim, this may also be a concern of the ADOI. We do not want anyone to believe that they have the protection of a regulator agency should something go awry with the handling of a 3rd party claim when in fact there is no protection as the ADOI does not license adjusters to handle 3rd party claims.

11/23/01 **ADOI response to motion for protective order and injunctive relief.**

5/13/2002 **Received copy of 5-8-02 minute entry dismissing Robert's case against the ADOI. Reviewed file again. Robert's client actually filed a complaint with the state bar alleging that he represented himself as an attorney and told her that if anyone wanted to talk to her about he claim that she should tell them to contact her attorney. There is no allegation that he misrepresented the authority of his adjuster's license permits him to handle 3rd party claims. Case closed.**

CLOSING DATE: **5-13-02**

RECOVERY **0**

(4)

No. 03-930

Supreme Court, U.S.
FILED
JAN 2 8 2004
OFFICE OF THE CLERK

In The

Supreme Court of the United States

IRWIN GARY ROBERTS,

Petitioner,

v.

PATRICIA JEANNE ARD,

Respondent.

On Petition For A Writ Of Certiorari To The Supreme Court Of The State Of Arizona

PETITIONER'S SUPPLEMENTAL BRIEF

IRWIN GARY ROBERTS, PRO SE
5629 S. Sailor's Reef Road
Tempe, Arizona 85283
(480) 491-4020

JOHN J. EGBERT
JENNINGS, STROUSS AND SALMON
Counsel for Respondent
Collier Center
11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
(602) 262-5911

I

The petitioner Roberts' Writ of Certiorari should be accepted as true by the Supreme Court of the United States as the Respondent Ard's attorney John J. Egbert waived his right to respond to this Court on January 8th, 2004 since silence is an acceptance of Petitioner's Writ of Certiorari.

All material allegations of petitioner's complaint must be accepted as true and in a light most favorable to the petitioner Roberts. In Re Broker Bund Learning Company Co. Securities Litigation, 294 F.3d 1201, 1203 (9th Cir. 2002).

The Petitioner Roberts respectfully requests that this Supreme Court of the United States make a definitive statement that state courts can't discriminate against people representing themselves in favor of parties represented by an attorney by denying them their day in court because of mere technical errors in the misunderstanding of the Rule of Civil Procedure and the case herein should have been heard on its merits.

For all the foregoing reasons, the petition should be granted.

Respectfully submitted,

IRWIN GARY ROBERTS, PRO SE
5629 S. Sailor's Reef Road
Tempe, Arizona 85283

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JENNINGS, STROUSS AND SALMON
Counsel for Respondent
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